

BAR STANDARDS BOARD

REGULATING BARRISTERS

Annual BSB Entity Renewal Guidance

IMPORTANT NOTE: This guidance is for the Entity Renewal process only.

If you are intending to apply for authorisation/licensing as a BSB regulated entity, please visit the [BSB website](#) for details

Background

The annual entity renewal process requires you to let us know whether you want your entity to continue to be authorised/licensed by the BSB. It should be completed by the HOLP (Head of Legal Practice) of the entity.

If you wish to continue, we ask you to confirm certain details about your entity, give us relevant updates, and provide us with more information as we request it. We will assess the information you supply and renew the entity's authorisation for a further 12 months if appropriate.

You are required to pay the annual renewal fee which covers the costs of the review and ongoing supervisory activities. The fee is calculated based on the number of authorised individuals providing legal services through the entity. You can find [fee details](#) on the BSB website.

If you do not wish to continue as a BSB regulated entity, please let us know so we can help you manage the transition and avoid negative impacts on your clients or the public.

Entity Renewal Questions

Questions 1 – Continuing as a BSB regulated entity

If you wish to continue as a BSB regulated entity you should answer “Yes”.

If you do not wish to continue as a BSB regulated entity you should answer “No”.

If you answer “No” to this question, the process will end. You will receive an email confirming your answer. We will then begin the process of revoking your authorisation/licence as set out in the BSB Handbook. Your authorisation/licence will not be immediately revoked as we need to ensure that doing so will not negatively impact on any clients or on the public, and will contact you to discuss how you intend to manage the transition.

Question 2 - Insurance Declaration

This question refers to the mandatory requirement set out in Rule s83.4 of the BSB Handbook to have appropriate insurance arrangements in place at all times. The BSB has a regulatory duty to ask this question annually.

In determining the adequacy of your insurance arrangements, you must have regard to the [BSB Minimum Terms of Entity Cover](#). We also ask you to carry out an analysis of the key risks impacting, or potentially impacting, your entity. Whilst there is no prescribed form for the risk analysis, it must help you ascertain the appropriate level of insurance cover for your entity.

If you do not confirm you have both assessed your entity insurance requirements and undertaken a risk analysis, we cannot renew your entity’s authorisation/licence, and will contact you to discuss next steps.

Question 3 – Anti-Money Laundering

Please see the Anti- Money Laundering and Counter Terrorist Financing Guidance below about this question.

Question 4 – Website Addresses

This year we are also asking for your website address(es) – please list any you have. If you operate from a chambers and do not have a website address of your own, please give the chambers’ website address. If you operate from a chambers, and have your own web-address, please give both the entity’s and the chambers’ website address. If you do not have a website, please write ‘Does not apply’.

Question 5 - Material Change Declaration

The annual entity renewal process does **not** supersede or replace your responsibility to inform us throughout the year of material changes to your entity. However, here we give you an additional opportunity to provide us with details of such changes.

There is no prescribed list of material changes but it would include;

- New owners, managers, Heads of Legal Practice or Finance and Administration;
- Any changes that may mean an owner, manager, HOLP or HOFA is no longer suitable for their role. This could for example include criminal convictions or having authorisation to practise withdrawn;
- Any changes that would mean the entity category changes, e.g. legal activities being provided through the entity by additional authorised individuals;
- Significant changes to the entity's business, organisational or governance structures;
- Any identified increased risk.

Note: This list is not exhaustive. Should you have any queries as to whether particular changes to your entity are material, we recommend you provide details when you complete the renewals process.

As with the initial authorisation/licensing process, we look at all information you provide on a holistic, case by case basis to determine how it impacts the entity, its risk rating and its appropriateness for regulation by the BSB. We will discuss the nature of the material change with you and may require further information.

Question 6 – Annual Renewal Fee

Finally, we ask you to pay the annual renewal fee which covers the costs of the review and ongoing supervisory activities. The fee is calculated based on the number of authorised individuals providing legal services through the entity. You can find details of the [fees](#) on our website.

Contact Details

Should you have any queries about the process, please contact the BSB Entities Team on

- T: 0207 092 6801 or
- E: EntityRegulation@BarStandardsBoard.org.uk.



Anti- Money Laundering and Counter Terrorist Financing Guidance for BSB entities making declarations at renewal

BSB entities are required to make the following declarations at renewal. The attached guidance (below) will assist you in making an accurate declaration. If you have any comments or questions about this guidance, please email entites@barstandardsboard.org.uk

Declarations that BSB entities are required to make at renewal

1. Is the entity undertaking, does it have current instructions or has it in the last 12 months undertaken work which falls within the scope of Part 2, Chapter 1 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017?
Please read: **Compliance Officer and Nominated Officer**

Guidance to making your declaration under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“the Regulations”)

- a. Yes or No

2. Is the entity undertaking, does it have current instructions or has it in the last 12 months undertaken work as a trust or company service provider which falls within the scope of paragraphs 12 (2) (a) to (d) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017?
Please read: **Trust or Company Service Provider guidance**
- a. Yes or No

3. (If yes to 1 and/or 2) With reference to paragraphs 26 (8) and (11) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, have any of those listed as HOLP, HOFA, owners or managers been convicted of a “relevant offence” as listed in Schedule 3 of the above Regulations?

Please read: **Guidance on what is a “relevant offence”**

- a. Yes or No

4. Please provide the name of the following:

- i. The officer responsible for your entity’s compliance with the Regulations in accordance with regulation 21(1).

[Text box]

- ii. The entity’s nominated officer responsible for receiving disclosures in accordance with regulation 21(3).

[Text box]

Please read: **Guidance on Compliance Officer and Nominated Officer**

1. Guidance to making your declaration under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (“the Regulations”)

Where can I find a copy of the Regulations?

You can find the Regulations here: <http://www.legislation.gov.uk/ukSI/2017/692/made>. These Regulations came into force on 26 June 2017.

Why does the Bar Standards Board require the entity to declare if its work falls within the scope of the Regulations?

The Regulations impose certain obligations on the Bar Standards Board (“the BSB”), including to:

- carry out risk-based supervision (regulation 17);
- ensure that only those who are fit and proper persons are conducting work that falls within the scope of the Regulations (regulation 26); and
- provide a register of trust or company service providers (“TCSPs”) to HMRC (regulation 54).

To enable us to comply with these obligations we need to know which BSB entities are undertaking work that falls within the scope of the Regulations.

Also, from 2018, the BSB is subject to an oversight regulator called the Office for Professional Body Anti-Money Laundering Supervision (“OPBAS”). OPBAS will allocate its costs between the organisations that it supervises. Collecting data about how many entities are engaged in relevant work will enable us to ensure that OPBAS costs are allocated to the Bar proportionately.

If you undertake work that falls within the scope of the Regulations then you have specific obligations under the Regulations.

For all these reasons, it is important for you to understand whether the work that you do falls within the scope of the Regulations and make an accurate declaration about whether you are undertaking, have current instructions or in the last 12 months have undertaken work which falls within the scope of the Regulations.

Does the work of the entity fall within the scope of the Regulations?

Part 2, Chapter 1 sets out who is subject to the Regulations:

<http://www.legislation.gov.uk/uksi/2017/692/made>

You should read the Regulations carefully to help you to decide whether the work you are doing falls within their scope. For BSB entities, this is most likely to be in relation to the activities set out in the following paragraphs, but you should read the whole of Part 2, Chapter 1 of the Regulations:

11 (d) **Tax adviser** means a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons, when providing such services.

12. (1) In these Regulations, “**independent legal professional**” means a firm or sole practitioner who by way of business provides legal or notarial services to other persons, when participating in financial or real property transactions concerning:

- (a) the buying and selling of real property or business entities;
- (b) the managing of client money, securities or other assets;
- (c) the opening or management of bank, savings or securities accounts;

(d) the organisation of contributions necessary for the creation, operation or management of companies; or

(e) the creation, operation or management of trusts, companies, foundations or similar structures,

and, for this purpose, a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction.

12 (2) In these Regulations, “**trust or company service provider**” means a firm or sole practitioner who by way of business provides any of the following services to other persons, when that firm or practitioner is providing such services:

(a) forming companies or other legal persons;

(b) acting, or arranging for another person to act:

(i) as a director or secretary of a company;

(ii) as a partner of a partnership; or

(iii) in a similar capacity in relation to other legal persons;

(c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or legal arrangement;

(d) acting, or arranging for another person to act, as:

(i) a trustee of an express trust or similar legal arrangement; or

(ii) a nominee shareholder for a person other than a company whose securities are listed on a regulated market.

HM Treasury has decided that there should be one set of guidance for the legal sector in England, Wales, Scotland and Northern Ireland. The BSB has been working with the other legal regulators and representatives from the professions to develop the joint guidance, which is available here:

<https://www.barstandardsboard.org.uk/regulatory-requirements/anti-money-laundering-and-counter-terrorist-financing/>

You should read this guidance to help you to decide whether the work that you do falls within the scope of the Regulations.

HM Treasury has confirmed that the following would not generally be viewed as participation in a financial transaction and therefore not within the scope of the Regulations:

- payment on account of costs to a legal professional or payment of a legal professional's bill;

- provision of legal advice;
- participation in litigation or a form of alternative dispute resolution.

The Bar Council has produced additional guidance with some case studies to further assist barristers, chambers and BSB entities in deciding whether the work that they do falls within the scope of the Regulations: <http://www.barcouncilethics.co.uk/documents/money-laundering-terrorist-financing/>

If, after reading the Regulations and the guidance, you are still unsure about whether the work that you do falls within the scope of the Regulations, you can contact the Bar Council Ethical Enquiries Service: <http://www.barcouncilethics.co.uk/ethical-enquiries-service/>

Currently, the entity doesn't do work that falls under the Regulations, but the cab rank rule means that it might do in the future. What should we declare?

We only require you to confirm annually, at renewal, whether you are undertaking, have current instructions or in the last 12 months have undertaken work which falls within the scope of the Regulations.

Regulation 56 says that you must not act as a trust or company service provider ("TCSP": see Trust or Company Service Provider guidance) unless you are registered with HMRC:

<http://www.legislation.gov.uk/ukxi/2017/692/made>

If you commence work as a TCSP after renewal, you should contact entities@barstandardsboard.org.uk to ensure that you are included on the register.

Where can I get help in understanding my obligations under the Regulations?

HM Treasury has decided that there should be one set of guidance for the legal sector in England, Wales, Scotland and Northern Ireland. The Bar Standards Board ("BSB") has been working with the other legal regulators and representatives from the professions to develop the joint guidance, which is available here:

<https://www.barstandardsboard.org.uk/regulatory-requirements/anti-money-laundering-and-counter-terrorist-financing/>

The Bar Council has produced additional guidance with some case studies to further assist barristers, chambers and BSB entities in deciding whether the work that they do falls within the scope of the Regulations: <http://www.barcouncilethics.co.uk/documents/money-laundering-terrorist-financing/>

If, after reading the Regulations and the guidance, you are still unsure about whether the work that you do falls within the scope of the Regulations, you can contact the Bar Council Ethical Enquiries Service: <http://www.barcouncilethics.co.uk/ethical-enquiries-service/>

2. Trust or Company Service Provider guidance

What is a trust or company service provider (“TCSP”)?

TCSPs are defined in the Regulations as follows:

<http://www.legislation.gov.uk/uksi/2017/692/made>

12 (2) In these Regulations, “**trust or company service provider**” means a firm or sole practitioner who by way of business provides any of the following services to other persons, when that firm or practitioner is providing such services:

- (a) forming companies or other legal persons;
- (b) acting, or arranging for another person to act:
 - (i) as a director or secretary of a company;
 - (ii) as a partner of a partnership; or
 - (iii) in a similar capacity in relation to other legal persons;
- (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or legal arrangement;
- (d) acting, or arranging for another person to act, as:
 - (i) a trustee of an express trust or similar legal arrangement; or
 - (ii) a nominee shareholder for a person other than a company whose securities are listed on a regulated market.

Why do you need a separate declaration for trust or company service providers (“TCSPs”)?

Regulation 54 requires HMRC to maintain a register of all TCSPs and Regulation 56 requires all TCSPs to be registered with HMRC:

<http://www.legislation.gov.uk/uksi/2017/692/made>

If you declare that you carry out work as a TCSP, you do not need to register directly with HMRC. Instead, we have an obligation to submit the following information about you to HMRC so that they can include you on the register:

- Names of BSB entities or individuals acting as a TCSP.
- Practising address.
- Confirmation that relevant persons are fit and proper (with reference to Regulation 26).

This data is already publicly available on the BSB website. This arrangement will be governed by a Memorandum of Understanding between the BSB and HMRC.

Regulation 56 says that you must not act as a TCSP unless you are registered with HMRC:

<http://www.legislation.gov.uk/uksi/2017/692/made>

If you commence work as a TCSP after renewal you should contact entites@barstandardsboard.org.uk to ensure that you are included on the register.

Where is the authority in the Regulations for the BSB to disclose information to HMRC and for it to use this to maintain the TCSP register?

Regulation 52(1) provides legal authority for professional body supervisors (such as the BSB) to disclose information to HMRC for a function under these Regulations. Regulation 54(2)(c) provides that HMRC has a duty to maintain a register of relevant persons who are TCSPs and not registered with the FCA. The combined effect of regulation 52 and 54 creates an express gateway by which information may be passed.

Will HMRC be publishing the TCSP register and who will the data be shared with?

While HMRC has the power to publish all or part of the register, it currently has no intention of doing so publicly. HMRC intends to share the data with Law Enforcement Agencies, who will be able to use the information for their enforcement activity.

Law enforcement agencies include the Police, the National Crime Agency, Ministry of Defence Police, the National Fraud Intelligence Bureau, the Office of Security and Counter Terrorism and the Serious Fraud Office. HMRC does not intend to communicate directly with barristers or BSB entities on the register, although information held by HMRC for the purpose of one function may be used by HMRC for other HMRC functions.

HMRC is subject to the requirements of the Freedom of Information Act 2000.

Supervisors (such as the BSB) will only be able to see data about their own regulated individuals or entities and will not have access to information about other supervisors' registered individuals or businesses.

3. Guidance on what is a “relevant offence”

What is a “relevant offence” for the purposes of the Regulations?

See Schedule 3 of the Regulations:

<http://www.legislation.gov.uk/uksi/2017/692/made>

You should only answer “yes” if any of those listed as HOLP, HOFA owners or managers have any UNSPENT convictions on the list on the above link.

4. Compliance Officer and Nominated Officer

What is a “Compliance Officer” for the purposes of the Regulations?

Regulation 21(1) requires that, where appropriate with regard to the size and nature of its business, a BSB entity must appoint one individual who is a member of the board of directors (or if there is no board, of its equivalent management body) or of its senior management as the officer responsible for the relevant person’s compliance with these Regulations.

A member of senior management means an officer or employee with sufficient knowledge of your entity’s money laundering and terrorist financing risk exposure and sufficient authority to take decisions affecting that risk exposure.

What is a “Nominated Officer” for the purposes of the Regulations?

Regulation 23(1) requires a BSB entity to nominate an individual as a nominated officer, who is nominated to receive disclosures under Part 3 (terrorist property) of the Terrorism Act 2000(14) or Part 7 (money laundering) of the Proceeds of Crime Act 2002.

Your nominated officer is responsible for ensuring, that, when appropriate, the information or other matter leading to knowledge or suspicion, or reasonable grounds for knowledge or suspicion of money laundering is properly disclosed to the relevant authority.

Your nominated officer should be of sufficient seniority to make decisions on reporting which can impact your entity's business relations with your clients and your exposure to criminal, civil, regulatory and disciplinary sanctions. They should also be in a position of sufficient responsibility to enable them to have access to all of your entity's client files and business information, when necessary, to enable them to make the required decisions on the basis of all the information held by the entity.

Regulation 21(4) requires the entity to notify the BSB of the identity of both the Compliance Officer and the Nominated Officer.