

ENFORCEMENT FRAMEWORK

of the

Legal profession supervisory board (*College van toezicht advocatuur*)

15 October 2020

Table of Contents

SECTION 1	INTRODUCTION AND CONTEXT	2
1.1.	About the enforcement framework	2
1.2.	The division of roles between the board and the local bar presidents.....	2
SECTION 2	STANDARDS FRAMEWORK	4
2.1.	Introduction.....	4
2.2.	What is the purpose of the standards framework?	4
2.3.	What are standards?	4
2.4.	How is the standards framework structured?	5
2.5.	How is the standards framework applied in practice?.....	7
SECTION 3	MONITORING AND ANALYSIS.....	8
3.1.	Introduction.....	8
3.2.	What is meant by monitoring and analysis?	8
3.3.	How is monitoring structured?	9
3.4.	What does the board expect from the local bar presidents?	11
3.5.	Other monitoring by the board	17
SECTION 4	ENFORCEMENT.....	19
4.1.	Introduction.....	19
4.2.	What is enforcement?.....	19
4.3.	What are the enforcement criteria?	20
4.4.	Enforcement instruments	20
4.5.	Enforcement structure	22
SECTION 5	REPORTING.....	25
5.1.	Introduction.....	25
5.2.	What does the board report on?	25
5.3.	How does the board report?	25
5.4.	To whom does the board report?	26
	ANNEX	27
	ILLUSTRATIONS AND GOOD PRACTICES.....	27

SECTION 1 INTRODUCTION AND CONTEXT

The joint aim of the supervisory board and the local bar presidents in the eleven judicial districts is to promote the quality and integrity of the legal profession. The local bar presidents are responsible for supervision and dealing with complaints about lawyers in their respective judicial districts. The board monitors the supervision and complaints handling procedure independently and as an outside observer and takes action where necessary.

1.1. About the enforcement framework

The enforcement framework is an interconnected framework that describes the board's supervisory procedure as regards the local bar presidents: from standards to monitoring and enforcement and reporting. This framework is the operationalisation of the Supervisory Framework (*Toezichtkader*) dating from 2019. In it, the board set out what it assesses when supervising and dealing with complaints about lawyers. The enforcement framework is also based on the recommendation commissioned by the board, which was issued on 15 August 2019 by Prof. D. Schoenmaker. It is entitled: "Towards a good and balanced enforcement framework for the Legal Profession Supervisory Board" (*Naar een goed en evenwichtig handhavingskader voor het College van Toezicht Advocatuur*). In its elaboration of the framework, the board uses images, methods and terminology that are customary in the world of supervision.

The enforcement framework contributes to the further professionalisation of the board's work by structuring and describing the entire supervisory process in a unified whole. It also sets limits and thus clarifies the scope of its duties. This enforcement framework provides guidelines to the local bar presidents for structuring, carrying out and reporting on their supervisory work and complaints handling, including when local bar presidents change. By publishing this enforcement framework on its website, the board is helping to clarify its work as a system supervisor and the effects of its supervision.

This enforcement framework brings the two separate currents of supervision together. The traditional current is concerned principally with compliance by individual parties and the imposition of appropriate measures if a party is not in compliance. The broader current places the emphasis on safeguarding the public interest, with the supervisory organisation being structured to ensure that other parties adequately control the risks that could damage the public interest.

1.2. The division of roles between the board and the local bar presidents

The local bar president is a supervisor within the meaning of the General Administrative Law Act (*Algemene wet bestuursrecht*) and is responsible for supervising compliance by the lawyers in his or her own judicial district with the Act on Advocates (*Advocatenwet*) and the Money Laundering and Terrorist Financing (Prevention) Act (*Wet ter voorkoming van witwassen en financieren van terrorisme (Wwft)*). The purpose of supervision is to promote and ensure compliance with the statutory rules. This can lead to a local bar president ascertaining shortcomings or offences. He or she then decides whether or not to take enforcement measures.

All the local bar presidents of the judicial district bars together form the Local Bar Presidents' Consultative Panel. That is the consultative body in which the local bar presidents discuss the way in

which they discharge their supervisory responsibilities and powers as well as handle complaints.¹ This includes coordinating their supervisory policy.

The board monitors supervision and complaints handling by the local bar presidents. This includes establishing whether supervision and complaints handling procedures as a whole are functioning properly and whether the individual local bar presidents themselves are performing satisfactorily. In this regard, the board examines patterns in the work being done rather than the actual handling of individual cases. This remit may be described as a form of system supervision. This also means that the board is not an appeal body as regards the actions of a local bar president in any particular instance.

The board draws on information from a range of sources when assessing the functioning of supervision and complaints handling. Given that the local bar presidents and the board have the same ultimate aim, the board's work is, in principle, based on legitimate trust. This means that, fundamentally, it proceeds from the information it receives from the local bar presidents. To assess the system's operation, it is important for the board also to be able to determine the quality and consistency of supervision and complaints handling. For example, the board wants to be able to ascertain whether the local bar presidents consistently apply certain policy in practice and whether they perform their supervisory responsibilities properly. Consequently, it has to be granted access to the local bar presidents' individual complaints and supervision dossiers if it sees the need for that. A method for providing such access is being developed that will safeguard the confidentiality of information on, in particular, clients who could feature in the local bar presidents' dossiers. They will be covered by the lawyer-client privilege of the lawyers and local bar presidents involved. This enables the board to exercise effective system supervision. In this regard, it is not the board's aim to issue guidance in any individual cases or to exercise supervision or handle any complaints itself. That is not its responsibility, nor does it have any such powers.

The board places high demands on the work of the local bar presidents. It gives careful consideration to the effect of its expectations and criteria on the local bar presidents and whether the time involved and the usefulness of that process are in proper proportion to each other. The individual local bar presidents cannot always be expected to further develop the supervision and complaints handling procedures themselves. Joint initiatives are sometimes needed for that. The board's role is also to set up new initiatives and to support the local bar presidents' implementation of them.

¹ The purport of the enforcement framework will remain intact if the Local Bar Presidents' Consultative Panel is given a more independent position in the future. However, the starting points for supervision may change.

SECTION 2 STANDARDS FRAMEWORK

2.1. Introduction

This section describes the standards framework used and it answers the following questions:

- What is the purpose of the standards framework?
- What are standards?
- How is the standards framework structured?
- How is the standards framework applied in practice?

2.2. What is the purpose of the standards framework?

The standards framework fleshes out the Supervisory Framework. It aims to clarify the yardsticks against which the board assesses the local bar presidents' supervision and complaints handling.

The board periodically updates the standards framework. The fact is that the context in which the local bar presidents operate is dynamic. For instance, the risks involved or their seriousness are subject to change. Expectations and rules about the performance of lawyers, or rules on their supervision, can also change. Local bar presidents and the board need to be alert to changes and what they mean for the effect of supervision and complaints handling.

2.3. What are standards?

Standards are descriptions of what the board defines as good supervision and good complaints handling by the local bar presidents.

Standards can be general (principles) or specific (rules), depending on the type of situation involved. A principle is open and provides more leeway for interpreting and applying a standard. A rule defines clear boundaries. Example: examining a lawyer's expertise requires principles as a guide on how to proceed, while supervising a financial situation is more suited to being governed by rules.

The standards in the standards framework are derived from laws and regulations and, where relevant, they reflect existing policy documents, including ones from the local bar presidents themselves. These standards elaborate on the criteria for good supervision set out in the Supervisory Framework. These criteria are: effectiveness, independence, professionalism, consistency and visibility.

A standard needs to be described sufficiently specifically, with examples of good supervision practices. These are included in the annex entitled 'Illustrations and good practices'.

2.4. How is the standards framework structured?

The standards framework has a layered structure. The first layer, the core of the standards framework, is described below. The second layer, containing illustrations of what may be expected of the local bar presidents *in certain types of situations*, is described in the annex entitled 'Illustrations and good practices'.

The first layer consists of descriptions of what the board defines as good supervision and good complaints handling by the local bar presidents. These standards elaborate on the criteria *effectiveness, independence, professionalism, consistency* and *visibility*. This elaboration is organised according to the steps in the local bar presidents' annual supervision cycle:

1. At the beginning of the cycle, a local bar president determines, on a well-founded basis, what the focus of his or her work will be, what he or she hopes to achieve and how to set about that. This in particular involves the criterion of *effectiveness* and devoting more attention to important risks and activities. See the column entitled 'The local bar president's annual plan'. The local bar presidents choose particular emphases every year. These are based, in part, on the collective long-term plan and the risk analysis underlying it.
2. The local presidents then implement activities during the year based on the annual plan and new developments. Implementing them mainly involves the criteria of *independence, professionalism* and *consistency*. The way in which results are achieved is important. See the column entitled 'The local bar president's supervision activities'.
3. Finally, the local bar presidents report on their supervision and complaints handling, including the results, trends and developments. This involves all the criteria, but mainly *visibility*. The local bar presidents demonstrate to the lawyers and to society as a whole what they do and contribute to the monitoring and promotion of quality and integrity in the legal profession. See the column entitled 'The local bar presidents' reporting'.

Supervision criteria	The board assesses the local bar presidents' annual plans	The board assesses The local bar presidents' supervision activities	The board assesses The local bar presidents' reporting
<p>The board assesses whether the supervision and complaints handling are:</p> <ul style="list-style-type: none"> - effective - independent - professional - consistent and - visible <p>in the interest of monitoring and promoting the quality and integrity of the lawyers' professional practice.</p> <p>(Supervision framework)</p>	<p>A1. Annual plan</p> <p>Each local bar president draws up an annual plan in a timely fashion, based on the collective local bar presidents' long-term plan.</p> <p>An <i>annual plan</i> sets out both specific goals and the way in which local bar presidents will be able to measure them. An annual plan makes it clear which activities are to be undertaken and how capacity and resources are to be used and their risks controlled, i.e. where there is an increased likelihood of a particular risk or damaging problem occurring.</p> <p>The collective <i>long-term plan</i> is based on a structured and documented risk analysis – an analysis, classification and prioritisation of risks agreed with other local bar presidents.</p> <p>A2. Risk analysis</p> <p>The risk analysis assumes the importance of the quality and integrity of professional practice and is based on:</p> <ul style="list-style-type: none"> - a risk estimate of the professional group; - information and signals about lawyers and cooperating organisations; - an exploration of developments in and around the legal profession; and - lessons from the analysis of and reflection on the previous year (see C2). 	<p>B1. Regular activities</p> <p>Each local bar president implements the annual plan appropriately, giving due consideration to the approach and resources to be used.</p> <p>Local bar presidents act independently and professionally. They are given sufficient support in terms of both quality and quantity.</p> <p>Local bar presidents act consistently. Policy and <i>inter alia</i> the exchange of casuistics with other local bar presidents guarantee consistent assessment and actions.</p> <p>B2. Exchange of signals</p> <p>Local bar presidents ensure a properly functioning exchange of signals with cooperating organisations.</p> <p>Local bar presidents investigate signals about possible non-compliance, unprofessional conduct or inadequate quality of lawyers.</p> <p>They may draw in signals in their regular activities or revise planned activities.</p> <p>B3. Interim adjustments</p> <p>Local bar presidents are alert to new signals and developments and, where necessary, they review <i>the priorities</i> in their annual plan and their supervision activities. Local bar presidents document their deliberations and decisions about revising activities.</p> <p>Local bar presidents notify the board, in a timely fashion and of their own accord, if they are required to deal with urgent matters or situations that could have a more than average impact on the exercise of their supervision or could be detrimental to it.</p>	<p>C1. Reporting</p> <p>Local bar presidents report in a timely fashion, demonstrating to the outside world:</p> <ul style="list-style-type: none"> - how supervision and complaints handling have been carried out; - the nature and gravity of offences committed or shortcomings that occur in the practice of law; - the results and effects of their supervision and complaints handling; - the extent to which the aims set out in their annual plans have been achieved. <p>Local bar presidents provide information to the board in the manner set out in section 3 (Monitoring).</p> <p>C2. Reflection</p> <p>Local bar presidents base their reporting, in part, on reflections on and analysis of:</p> <ul style="list-style-type: none"> - the state of the legal profession; and - the effect of the risk-based approach.

The second layer consists of illustrations of what may be expected of local bar presidents *in certain types of situations*. The standards focus on those situations. Consequently, they do not entail an additional expectation, or an additional obligation for the local bar presidents but, rather, they are applications and illustrations. Local bar presidents are obviously faced with all kinds of situations in their supervision work and there are various ways to describe them. One conventional way is to do so according to *areas of supervision*. This also provides the structure for the annex entitled 'Illustrations and good practices'.

The areas of supervision involved are:

- T1. the quality, expertise and integrity of lawyers
- T2. lawyers' compliance with the Money Laundering and Terrorist Financing (Prevention) Act
- T3. the financial position of lawyers
- T4. complaints handling by the local bar presidents.

2.5. How is the standards framework applied in practice?

By the board

The structure of the standards framework serves as a basis for the system of monitoring and enforcement (as described in sections 3 and 4). It also provides the basis for the board's annual decision-making on its own work. The board may periodically amend the standards framework, based on its own findings or new developments.

By the local bar presidents

The standards framework provides the local bar presidents with a structure for planning, implementation and reporting on their work. It shows what is expected of their supervision and complaints handling.

SECTION 3 MONITORING AND ANALYSIS

3.1. Introduction

This section describes the board's monitoring and analysis work. It also answers the following questions:

- What is meant by monitoring and analysis?
- How is monitoring structured?
- What does the board expect from the local bar presidents?
- What else does the board monitor?
-

3.2. What is meant by monitoring and analysis?

Monitoring is the process of the board gathering information in order to gain a clear idea of the effect of supervision and complaints handling. The board obtains a lot of its information from the local bar presidents. It also collects information in other ways, for example by investigating particular topics or consulting stakeholders.

The basis for monitoring is provided by Section 45i(2) of the Act on Advocates:

1. *The supervisory board oversees the effect of the supervision referred to in Section 45a(1) and Section 24(2) of the Money Laundering and Terrorist Financing (Prevention) Act and complaints handling by the local bar presidents pursuant to Section 46c of this Act.*
2. *The local bar president provides the board with all the information the latter may reasonably need for fulfilling the duty referred to in the first subsection.*

The board analyses the information to assess the local bar presidents' supervision and complaints handling. This analysis involves assessing whether, for example, their supervision was adequate and sufficient or whether the targets set out in the annual plan were met, how much capacity was used for which supervision areas, and the extent to which the local bar presidents worked proactively.

3.3. How is monitoring structured?

The monitoring structure is a framework used by the board which shows the standard monitoring method.

How does the board monitor?

Column 1 is about HOW the board monitors: how does it gather information about supervision? The standard monitoring instruments are the annual plan, the annual report, the round of visits to the local bar presidents and the quantitative report. The board also collects information in other ways (see section 3.5).

Monitoring structure		
How does the board monitor? (standard monitoring instruments)	What does the board monitor?	When does the board monitor?
Long-term plans and annual plans of the local bar presidents for the coming year	<ul style="list-style-type: none"> - Targets - Risk analysis - Activities - Timely submission 	Long-term plan: at least every three years Annual plan: every year from the end of January * deadline for submission of the annual plan: last week of January
Annual reports of the local bar presidents on the past year	<ul style="list-style-type: none"> - Achievement of targets - Findings - Activities - Reflection - Timely submission 	From the first half of April * deadline for submission of the annual report: end of the first week of April
Visits to the local bar presidents	<ul style="list-style-type: none"> - Annual report (looks back) - Annual plan (looks forward) - Current situation - Expectations - Theme chosen by the supervisory board - Affairs in order 	Mid-May – Mid-June
Quantitative reports of the local bar presidents	<i>Final situation</i> of the preceding year and <i>interim situation</i> regarding quantitative data on areas of supervision: <ul style="list-style-type: none"> - Quality & expertise - Integrity - Compliance with the Money Laundering and Terrorist Financing (Prevention) Act - Financial position - Complaints handling 	From the beginning of October * deadline for submission of the quantitative report: end of the first week of October
Notification, signals and observations	Interim notification by the local bar presidents, signals from other sources and the board's own observations: <ul style="list-style-type: none"> - Urgent matters and issues - Unusual complaints and patterns - Other signals and observations 	Continuous

What does the board monitor?

Column 2 is about WHAT the board monitors: this depends on the instrument used. For instance, monitoring of the annual plan looks at targets, risk analyses and the intended approach, while monitoring of the annual report focuses on the results and effects achieved and reflects on them.

When does the board monitor?

Column 3 is about WHEN the board does its monitoring work. Part of it is done at fixed times during the year, at different times for different instruments. See the timeline below:

Local bar presidents

End of January

Annual plans

- Individual

- Local Bar Presidents'

Consultative Panel

First week of April

Annual reports

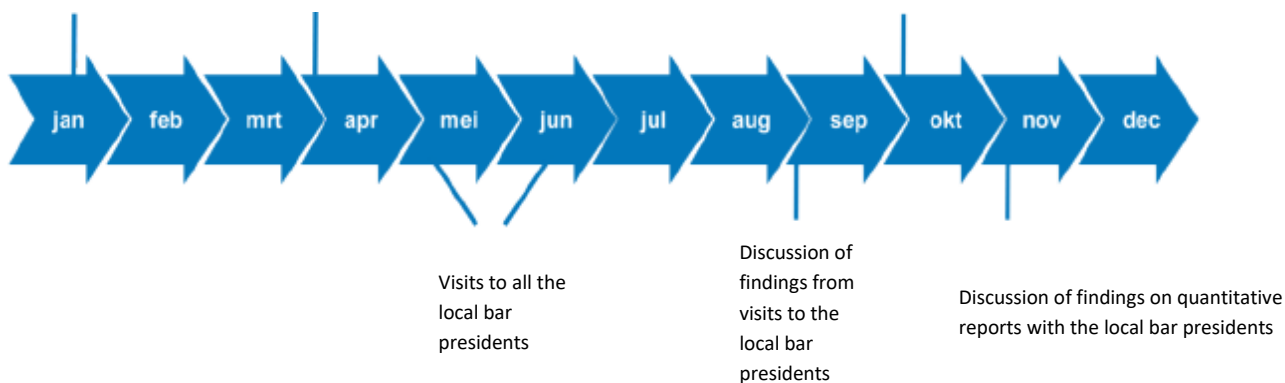
- Individual

- Local Bar Presidents'

Consultative Panel

1 October

Quantitative report



Board

3.4. What does the board expect from the local bar presidents?

As stated in the introduction, the board obtains a significant amount of its information from the local bar presidents. This section describes what the board expects from the local bar presidents as regards the content and submission of that information.

The board uses the following criteria in this regard:

- Interconnectedness: the information links the targets, work and outcomes;
- Clarity: the information is sufficiently specific and is explained;
- Punctuality: the information is submitted on time;
- Pro-activeness: the local bar presidents take the initiative to submit relevant information at interim times;
- Comparability: the information requirements make it possible to compare the information received from the different local bar presidents;
- Materiality: the information requirements are in accordance with the seriousness of the risks entailed and the relevant work.

Annual accounts and annual reports

The collective long-term plan of the Local Bar Presidents' Consultative Panel and the local bar presidents' individual annual plans are submitted to the board. The annual plans are due at the end of January every year. The long-term plan is drawn up at least once every three years. It contains certain key objectives and targets and it is based on a risk analysis. The individual annual plans are based on the long-term plan, although they focus on local targets and key areas and they emphasise different aspects every year.

The collective annual report and the individual annual reports are submitted to the board every year, no later than at the end of the first week of April. The annual report of the Local Bar Presidents' Consultative Panel collectively reports on supervision activities, targets (achieved and not achieved), trends and developments, and it contains collated quantitative information. In the individual annual reports, each local bar president reports on the implementation of supervision in his or her judicial district, annual plan targets that have been achieved, local developments, challenges, trends and developments.

The board expects the reports to meet certain minimum standards in terms of substance. These minimum standards are set out in the standards framework referred to in section 1. They are also included in the following tables describing the monitoring to be carried out under the annual plan and the annual report.

As yet there are no fixed formats for the annual plans and annual reports. They should be developed by the local bar presidents, in association with the board for example.

Annual plan		
	Parts	What does the board monitor?
1	Targets	The annual plan describes: <ul style="list-style-type: none"> - specific targets for each supervision area and puts them in perspective (compared to the preceding period, each other, and the state of the legal profession) - indicators that can be used to measure the achievement of these targets; - feedback and intended follow-up on the preceding year.
2	Risk analysis	The annual plan describes: <ul style="list-style-type: none"> - the risks that are given priority and the underlying considerations in this regard (from the long-term plan); - which theme(s) has/have been selected and the underlying considerations in this regard (from the long-term plan).
3	Activities	The annual plan describes: <ul style="list-style-type: none"> - the available capacity and how it will be apportioned (risk controlled) among activities and supervision areas; - how the planned activities will help meet the targets; - the lawyers selected for office visits and the underlying considerations in this regard; - which risks and activities are not given much or any attention due to limited capacity; and - activities that could enhance the independence, professionalism and consistency of the local bar president's work (provided they are planned).
4	Submission	The annual plan is submitted (in no fixed format) to the supervisory board secretary no later than at the end of January.

Annual report		
Parts		What does the board monitor?
1	Targets	The annual report describes and substantiates (and quantifies where possible): <ul style="list-style-type: none"> - the extent to which the targets have been met; - the results and effects of the supervision and complaints handling; - a reflection on the state of the legal profession (in terms of compliance and risk control).
2	Findings	The annual report describes, demonstrates and explains: <ul style="list-style-type: none"> - the nature and seriousness of the established offences or shortcomings in the actual practice of the legal profession; - the outcomes of/findings on theme-based investigations; - the development in compliance behaviour (figures) as regards expertise and the financial position of lawyers; - trends in signals and complaints about possible non-compliance, unprofessional conduct or insufficient quality of a lawyer;
3	Activities	The annual report describes: <ul style="list-style-type: none"> - the activities undertaken and the apportionment of capacity, and explains discrepancies in relation to the annual plan; - the actions taken as well as considerations in relation to signals received about non-compliance, unprofessional behaviour or insufficient quality of a lawyer; - the actions taken as well as considerations in relation to any infringements / non-compliance established; - the activities undertaken to promote consciousness about general integrity and compliance with the Money Laundering and Terrorist Financing (Prevention) Act.
4	Reflection	The annual report reflects on the risk-based use of resources, the extent to which the prioritized risks were astutely selected and what has been learned from this.
5	Submission	The annual report is submitted (in no fixed format) to the supervisory board secretary no later than at the end of March.

Round of visits to the local bar presidents

Every year, the board visits each of the individual local bar presidents in turn and discusses the current state of their supervision and complaints handling. The board schedules these visits on-site and is represented by two board members and the secretary. The local bar president may be assisted by an adjunct secretary or another office assistant. An agenda is used for every round of visits.

The board prepares questions and points for discussion for its round of visits. These are based in part on an analysis of:

- the local bar presidents' individual annual reports and the Local Bar Presidents' Consultative Panel's annual report on the preceding year;
- the local bar presidents' individual annual plans and the Local Bar Presidents' Consultative Panel's annual plan for the current year;
- other information (such as disciplinary decisions, notifications, theme-based investigations).

Questions asked in this regard are: what stands out? What are the similarities and differences between the local bar presidents? Do we see inconsistencies? What good and poor examples are there?

The board analyses all the visits afterwards and discusses its findings as a fixed agenda item, both at the board meeting and with the local bar presidents themselves. Feedback of these findings to the local bar presidents is considered as input for the next supervision cycle.

Round of visits (agenda)		
Parts		What does the board monitor?
1	Annual report	- Review of the past year
2	Annual plan	- Choices made and considerations that applied in the current year (and link to the long-term plan)
3	Current situation	- Situation now - Implementation of annual plan so far - New developments
4	Expectations	- Expectations for the rest of the year
5	Theme chosen by the supervisory board	- A detailed topic for the round of visits (e.g. the Money Laundering and Terrorist Financing (Prevention) Act)
6	'House in order'	- Office situation, quantitative and qualitative support - Observations on how supervision can be improved in a general sense.

Quantitative report

The board also requires access to quantitative data for its supervision. In part, it draws on figures from the annual report of the Local Bar Presidents' Consultative Panel, such as the number of s-files (i.e. specific supervision files) or complaints for each judicial district and the number of complaints or signals categorised according to type. The local bar presidents also submit quantitative data in a fixed reporting format no later than on 1 October every year. The purpose of this data is to disclose, on the one hand, certain final key figures for the year to date and, on the other hand, certain interim key figures for the current year.

The format for the quantitative report is shown on the following page and it should be read as follows:

- the first column lists, in addition to a "general" category, the five supervision areas from the standards framework described in section 2;
- the second column describes, for each supervision area, which quantitative data the local bar presidents supply;
- the third column requests final figures for this quantitative data for the preceding year, using 1 September as the reference date;
- the last column requests interim figures for this quantitative data for the current year, using 1 September as the reference date.

The board analyses the data submitted and discusses findings as a fixed agenda item both at the board meeting and with the local bar presidents themselves. Feedback of these findings to the local bar presidents is also considered as input for the next supervision cycle.

Quantitative report		Board monitors		
Parts		key figures submitted by the local bar presidents on 1 October		
	Supervision area	Number	Final figures for the preceding year (as at reference date 1 September)	Interim figures for the current year (as at reference date 1 September)
	General	complaints (categorised according to type, subject, handling)	✓ (only those that have been handled)	✓
		s-files (categorised according to background, subject, supervision measure taken)	✓ (only where a supervisory measure has been imposed)	✓
		objections from local bar presidents (categorised according to subject of the complaint)		✓
I	Quality, expertise & integrity	lawyers who have not obtained the requisite number of PE points	✓	
		lawyers who have not yet completed the quality assessment	✓	
		instances of misuse of and/or financial misconduct with clients' funds		✓
II	Compliance with the Money Laundering and Terrorist Financing (Prevention) Act	instances the notification obligation under Section 25 of the Money Laundering and Terrorist Financing (Prevention) Act has been used	✓	✓
		lawyers who indicate in the CCV (Centre for Crime Prevention and Safety) that they provide services under the Money Laundering and Terrorist Financing (Prevention) Act	✓	
III	Financial position	law firms marked "green, orange or red" in the Legal Profession Final Supervision Unit (FTA) (categorised according to judicial district, type of firm, size of firm)		✓
		insolvencies of lawyers (or law firms)		✓
IV	Complaints handling	appeals submitted or instances of opposition by local bar presidents		✓

Notification, signals and observations

The monitoring instruments listed above are used at fixed times. However, not everything can be foreseen or dealt with at these fixed times. Interim developments may occur that require the board's immediate attention.

Where any local bar president is forced to deal with urgent matters or situations that could have a more than average impact on, or be prejudicial to, his or her supervision and/or complaints handling work, the board expects him or her to notify it in good time and without any prompting. The board also expects to be notified of any unusual complaints, reports and patterns.

The board itself is also continuously alert to signals, new events and other information relevant to its supervision, and it screens a range of information sources in this regard.

In addition, the board receives information directly from complainants themselves about the handling of their complaints, or from lawyers with regard to their local bar president's supervision. Although the board does not have any statutory duty or power to handle complaints about the actions of local bar presidents in individual cases, such signals provide a source of information about their supervision and complaints handling work.

3.5. Other monitoring by the board

Apart from the regular exchange of information with the local bar presidents, the board also gathers monitoring information through other channels.

Periodic meetings with the chair of the Local Bar Presidents' Consultative Panel

The chair of the Local Bar Presidents' Consultative Panel meets with the board once every two months. The board should be notified in good time about the local bar presidents' collective policy and developments relating to their work.

These meetings also enable the board to keep abreast of the local bar presidents' activities and to ascertain that the Local Bar Presidents' Consultative Panel is acting effectively. The board has agendas, reports and, if requested, other documents of the Local Bar Presidents' Consultative Panel, which meets twice every month. In addition, the local bar presidents notify it of any arrangements they make and send it handbooks and any policy rules they have adopted.

Policy rules and relevant arrangements of the local bar presidents

The board assesses the local bar presidents' policy rules and ascertains whether their actions are in line with their own rules and arrangements. The Local Bar Presidents' Consultative Panel actively notifies the board about new policy rules and any relevant arrangements made by the local bar presidents. Policy rules must be sent to the board before being adopted.

Theme-based investigations and ad hoc reports

The board may (at unspecified times) adopt themes that require extra attention during a particular year and ask the local bar presidents to report on the state of their supervision of those themes. Such a theme could be, for example, the handling of risks relevant to the Money Laundering and Terrorist Financing (Prevention) Act.

The board may also have theme-based investigations carried out by external parties.

Disciplinary decisions

Under the Act on Advocates, the board is sent copies of all decisions of the disciplinary boards and the Disciplinary Appeals Tribunal (*Hof van Discipline*). These disciplinary decisions provide information on the trends and types of complaints made against lawyers as well as on the local bar presidents' supervision and complaints handling work. Examples of these include objections by the local bar presidents and requests for suspension pursuant to Section 60ab of the Act on Advocates.

Meetings with stakeholders and parties involved with supervision

To obtain information from various sources about the effectiveness of the local bar presidents' supervision of lawyers and their handling of complaints, the board meets with various stakeholders in the legal profession, such as representatives of the Legal Aid Board (*Raad voor Rechtsbijstand*), the disciplinary courts, the Financial Intelligence Unit - the Netherlands (FIU) or the Legal Profession Financial Supervision Unit (FTA Unit).

SECTION 4 ENFORCEMENT

4.1. Introduction

This section describes the board's enforcement procedure and answers the following questions:

- What is enforcement?
- What are the enforcement criteria?
- What enforcement instruments are there?
- How is enforcement structured?

4.2. What is enforcement?

The collective, ultimate goal of the local bar presidents and the board is to ensure an expert and ethical legal profession. The task of the supervisory board is to ensure proper supervision and complaints handling by the local bar presidents, i.e. that it is visible, independent, effective, professional and consistent.

The board's enforcement work always endeavours to maintain an appropriate balance between, on the one hand, stimulating the quality of the local bar presidents' supervision and complaints handling work and, on the other hand, taking action if their supervision and complaints handling do not meet the requisite standards.

Stimulation is the basis of the board's work. The board and the local bar presidents ultimately have the same goal and a shared intrinsic motivation to contribute towards achieving it. The number of local bar presidents under its supervision is also limited. This enables the board and the local bar presidents to engage and discuss about good supervision. They do so by, for example, exchanging experiences, listening to considerations and sharing good practices. The board is also able to give individual feedback.

However, the board sometimes needs to take action. It has to be resolute and may impose sanctions where supervision and complaints handling do not meet the requisite standards. This is a condition of supervision and it is also necessary in order for it to be credible. The board takes action if supervision or complaints handling does not meet the requirements more than just occasionally.

This section describes how the board takes action. This involves the most severe aspects of enforcement rather than just the basic form of it. This needs to be described and carried out with due care.

4.3. What are the enforcement criteria?

The board uses the following enforcement criteria:

- Viability: the board ensures that standards are knowable and clear and that it is possible for the local bar presidents to comply with them.
- Proportionality: the board only exercises its powers to the extent that it reasonably needs to do so in order to perform its task, and any enforcement measures it takes are proportionate to the gravity of the situation.
- Carefulness: the board proceeds from the facts, hears both sides and considers its decisions carefully.
- Resoluteness: if the situation so requires, the board's supervision is intensive with short timelines, thus preventing undue delays to any changes needed.

As an administrative body, the supervisory board must adhere to the general standards and principles of proper administration laid down in the General Administrative Law Act.

4.4. Enforcement instruments

A set of enforcement instruments is available to the board if it decides to take enforcement measures. This set is as follows:

- advice and stimulation;
- standards-transferring conversation;
- directive;
- request for suspension or discharge from duties;
- request for dismissal.

Advice and stimulation

The board primarily endeavours to issue advice or provide stimulation in order to persuade the local bar presidents to improve their supervision work. This could, for example, involve discussing expectations about supervision activities, listing aspects for improvement and making follow-up arrangements to find out whether the advice given has been complied with. Where possible, the board also offers to assist local bar presidents in their endeavours to achieve the desired results.

The board might encourage the local bar presidents to draft a policy rule if no such rule exists for a particular aspect, or if the method used or the application of an existing policy rule has the effect of bringing about an unwanted situation. If the local bar presidents do not draft a policy rule or they are not able to reach agreement after having received such encouragement, then the board may decide to issue the envisaged rule itself.

Standards-transferring conversation

If advice or stimulation does not have the desired effect, then the board can invite the local bar president to a standards-transferring conversation. During a standards-transferring conversation, the board will once again discuss earlier signals with the local bar president if necessary and make specific arrangements for him or her to observe key points and take particular action.

A standards-transferring conversation is led by one or more board members in the presence of the board secretary. A report of this conversation is drawn up and sent to the local bar president in question. The local bar president is given the opportunity to add comments to the report.

Directive

Issuing directives is a statutory power under Section 45b of the Act on Advocates. The President of The Netherlands Bar may, in his or her capacity as the chair of the supervisory board, issue a directive to a local bar president in relation to his or her supervision after the other members of the board have been consulted.

The President of The Netherlands Bar may also use this power by, for example, directing one or more local bar presidents to have a policy rule drawn up.

Request for suspension or discharge from duties

On the basis of Section 45c(2) of the Act on Advocates, the board may ask the Disciplinary Appeals Tribunal to suspend a local bar president from his or her duties if there is a serious presumption of facts or circumstances that could lead to dismissal (see *Requests for dismissal* in this regard).

There are also other situations unrelated to the performance of duties by local bar presidents in which it is up to the board to ask the Disciplinary Appeals Tribunal to suspend a local bar president or to discharge him or her from carrying out duties. Section 45c of the Act on Advocates provides the instances in which these so-called 'limited powers' have to be used by the board and the Disciplinary Appeals Tribunal, and in what way. These involve situations such as a presumption or conviction of a crime, being put under guardianship, bankruptcy, being granted suspension of payment, being the subject of a debt management, or imprisonment for debt.

Request for dismissal

The supervisory board may write to the annual meeting of the district Bar asking it to dismiss a local bar president and to appoint another local bar president in his or her place due to a failure to fulfil duties, or for unsuitability or incompetence for the position or for other compelling reasons relating to the person of the local bar president in question (Section 45d of the Act on Advocates).

4.5. Enforcement structure

The board exercises its enforcement powers on the basis of a graduated scale, which is shown below. Its policy in this regard is, if necessary, to first make a somewhat informal attempt to adjust the work being done by one or more local bar presidents. One way of doing this is by providing advice to the local bar president(s) in question. If that does not have the desired effect, then the board may use a more severe instrument in its enforcement structure.

This enforcement structure includes a graduated description of:

- the set of enforcement instruments used;
- the gravity of the act or omission in question;
- the culpability of the local bar president in question; and
- the gravity of the act or omission in question versus the culpability of the local bar president.

Gradations in the set of enforcement instruments

The gradations in the set of enforcement instruments vary from an adjustive or corrective action to a request for dismissal. If a corrective action does not have the desired effect, then the board may use a more severe instrument in its enforcement structure (Figure 1).

Figure 1: Gradations in the enforcement structure

1	Advice and stimulation
2	Standards-transferring conversation
3	Directive
4	Request for dismissal/discharge, dismissal

Gradations in the gravity of non-compliance

The gravity of non-compliance is a consideration when determining an appropriate enforcement measure. The graver the non-compliance, the more severe the intervention (Figure 2). Here a link is made to the standards framework described in section 2.

Figure 2: Gradations in the gravity of non-compliance

Gravity of non-compliance	1	Local bar president's non-compliance with the 'annual planning' and 'reporting', e.g.: - not performing the risk analysis or not performing it completely; or - a systematic failure to have adequate support.
	2	Local bar president's non-compliance with: - supervision of quality & expertise (I), financial supervision (IV) and complaints handling (V); and - notification of the board, promptly and at unscheduled times, about worrying issues or situations
	3	Local bar president's non-compliance with: - all matters concerning integrity (II) and the Money Laundering and Terrorist Financing (Prevention) Act (III).
	4	Systematic non-compliance with one or all of the foregoing.

Gradations in the culpability of a local bar president

The culpability of a local bar president is the next consideration when determining an appropriate enforcement measure. The greater the local bar president's culpability, the more severe the intervention (Figure 3).

Figure 3: Gradations in the culpability of a local bar president

Culpability of the local bar president	1	Lack of awareness (although awareness was possible) Inability (one-off incident)
	2	Unawareness (although awareness was required) Inability (recurring pattern)
	3	Unwillingness No improvement (recidivism)
	4	Systematic and deliberate acts or omissions (recurring pattern) Perpetration of a criminal offence or unlawful act

Gradations in the gravity of non-compliance and the culpability of a local bar president

The gravity of non-compliance and culpability of a local bar president are both elements of the ultimate decision on what is an appropriate measure. The rule of thumb is: *the graver the non-compliance and culpability of a local bar president, the more severe the intervention* (Figure 4). Proceeding from this rule, the board determines which measure to take. The enforcement structure serves as a guide in this regard. It is a simplified representation of reality. A measure that is more lenient, or more severe, than that prescribed by the matrix may be taken if the board decides that the specific circumstances of the situation call for that.

Figure 4: Enforcement structure

Considerable	2	3	4	4
Gravity of non-compliance	1	2	3	4
	1	2	2	3
Limited	0	1	1	2
	Limited	Culpability of the local bar president		Considerable

SECTION 5 REPORTING

5.1. Introduction

Reporting is the final element of the enforcement framework. The standards against which the board assesses the local bar presidents' supervision and complaints handling, the way it monitors and analyses their performance and how it takes enforcement measures, if necessary, have all been explained above.

5.2. What does the board report on?

The two key questions addressed by the board's reporting are:

- *How effective is the local bar presidents' supervision and complaints handling?*
- *What work has the board done and what effects and results has it produced?*

The board periodically reports on the way in which it carries out its key task and the effects and results produced. The board's key task, as an outside observer, is to independently examine the local bar presidents' supervision and complaints handling. The intended result is that their work is *effective, independent, professional, consistent and visible*.

The *effectiveness* criterion is linked to the ultimate goal of supervision, which is to ensure an expert and ethical legal profession. At this stage of the development of system supervision, the emphasis is on reporting on the supervision and complaints handling work done. This perspective is gradually supplemented with analyses of and reflections on the state of the legal profession.

The board also reports on its responsibility as a system supervisor. In this role it takes the steps needed to reinforce and further professionalise supervision of the legal profession. It also ensures that the expectations of external stakeholders in this regard are appropriate. The fact is that good supervision does not entirely prevent the occurrence of incidents.

5.3. How does the board report?

The board issues regular reports in the form of *work plans* and *annual reports*. These reports are issued at fixed times.

The basis for these reports is provided by Section 45f of the Act on Advocates:

1. *Each year, the supervisory board draws up a work plan, as well as a report of activities which at least sets out the policy pursued in general and, in particular, the efficiency and effectiveness of its activities and its approach over the past year.*
2. *The work plan and the report are sent to the Minister of Legal Protection, the general council, the board of representatives and the councils of the local bars, and are made available for general inspection.*

The purpose of the work plan is to make it clear in advance where the board's focus lies and what the underlying considerations are. The work plan is based on a risk analysis and societal trends that the board considers to be relevant to the legal profession. It sets out specific targets and envisaged results. The purpose of the annual report is then to report on whether those targets and results have been achieved and to provide information on other significant developments, trends and activities during that year. This is backed up by quantitative analyses (of complaints, for example) as well as signals or interventions by the local bar presidents.

Where possible, the board substantiates its reports by means of data and quantitative analysis, thus fine-tuning its customary qualitative descriptions.

The board also reports on its supervision at unspecified times if there is reason to do so, for instance if a serious incident has occurred that has raised questions about the effectiveness of supervision and complaints handling. The board then provides information about what its supervision has achieved, what decisions and considerations it was based upon, and, where applicable, what lessons can be drawn from that.

5.4. To whom does the board report?

The board reports to directly interested parties and to the general public.

These directly interested parties are the Minister, the general council, the board of representatives and the councils in which the local bar presidents participate.

The purpose of the board's reports is to provide clarification of its work as well as of its decisions and considerations. This enables the parties concerned to perform their duties. The Minister, for instance, is required to approve the board's budget and annual accounts after having consulted the general council. The crown-appointed board members are nominated by the Minister. The chair of the board – the President of the Netherlands Bar – is chosen by the board of representatives, while the local bar presidents are chosen by the annual meeting of their local bars. The Minister may request the suspension or dismissal of a member of the board. This does not alter the fact that the board carries out its work independently.

The board also reports to the general public, because guaranteeing an expert and ethical legal profession is a public interest. This means that society has to be able to have confidence in the proper functioning of the legal profession and its supervision. The fact is that the legal profession is one of the pillars of a democratic state governed by the rule of law. The board periodically reports on the state of the legal profession and what supervision has done to ensure its quality and integrity.

ANNEX
ILLUSTRATIONS AND GOOD PRACTICES
relating to the standards framework

This is an annex to the enforcement framework and it clarifies the standards framework described in it. The standards framework has a layered structure. The first layer, the core of the structure, is described in section 2 of the enforcement framework. The second layer, containing illustrations of what may be expected of local bar presidents in certain types of situations, is described in this annex.

It provides illustrations and describes good practices. The broad standards included in the standards framework focus on various situations. Consequently, they do not entail any additional expectation or obligation for the local bar presidents but, rather, they are applications and provide clarification.

Local bar presidents are obviously faced with all kinds of situations in their supervision work and there are various ways of considering and labelling them. One conventional way is to do so according to *areas of supervision*. Another possibility is, for example, to describe the *life cycle* of a lawyer or a law firm. This would begin with a lawyer's training, or the establishment of a new firm by incorporation or through a merger of existing firms, and would go all the way through to the lawyer's deregistration and closure of the firm. In the future, it will be decided whether this approach could be useful and provide added value to the further development of the enforcement framework.

This annex clarifies the situations in question and tabulates them in terms of *supervision areas*:

- T1. the quality, expertise and integrity of lawyers
- T2. lawyers' compliance with the Money Laundering and Terrorist Financing (Prevention) Act
- T3. the financial position of lawyers
- T4. complaints handling by the local bar presidents.

The board does not expect the local bar presidents to be able to periodically tick off everything included in the tables. The fact is that good supervision requires risk-based supervision by the local bar presidents. This means that deliberate, properly analysed decisions should be made about where the focus should and should not lie in any particular period.

The illustrations and good practices are periodically reviewed and modified.

T1 Quality, expertise and integrity of the lawyer

Context What the local bar presidents supervise	The board assesses the local bar presidents' annual plans	The board assesses the local bar presidents' supervision work	The board assesses the local bar presidents' reporting work
<p>Expertise <i>The lawyer is an expert in the exercise of his or her profession and is able to rely on sufficient knowledge and skills.</i> (Section 10a(1)(c) of the Act on Advocates).</p> <p>Competence <i>The lawyer is competent in the exercise of his or her profession, meaning that he or she has the professional knowledge and experience needed to practice that profession. The lawyer only takes on cases he or she has the relevant expertise for or for which he or she draws on another persons' expertise.</i> (Legal Profession Regulations ("Voda") Chapter 4, Section 4.1.).</p> <p>Up-to-date knowledge and expertise <i>Every year, the lawyer demonstrably maintains and develops his or her professional knowledge and expertise in legal areas relevant to his or her profession and obtains at least twenty study points every year.</i> (Voda, Articles 4.3. and 4.4.).</p> <p>Adequacy <i>The lawyer organises his or her firm and service provision to the client in an adequate manner.</i> (Voda, chapter 6)</p> <p>Professionalism <i>The lawyer is ethical and refrains from any acts or omissions not befitting a professional lawyer.</i></p>	<p>T1.A1. Annual plan Every year, the local bar president determines where the focus of his or her work will lie and sets specific targets, for example in the following areas:</p> <ul style="list-style-type: none"> - guaranteeing that all lawyers obtain the requisite study points, take the annual quality assessment and that they are properly registered in the legal areas register; - guaranteeing continuous quality control; - pro-actively identifying integrity risks and taking firm action in response to incidents; - paying active attention to the financial vulnerability of firms and any possible effect on the lawyer's ethical conduct and practice; - raising consciousness and measuring integrity at law firms. <p>T2.A2. Risk analysis As part of his or her risk-based approach, the local bar president collects systematic data about the amount of time and attention required by the various types of lawyers (e.g. based on the size of the firm, the legal area, location). The local bar president in any case examines complaints and s-files on integrity when assessing integrity.</p> <p><u>Good practice:</u> <i>Encouraging centralized probes to investigate a particular theme in greater depth.</i></p>	<p>T1.B1. Regular activities</p> <p><u>Good practices:</u></p> <ul style="list-style-type: none"> - <i>studying three to five files when visiting firms</i> - <i>submitting local bar president objections when lawyers repeatedly fail to obtain the requisite number of study points, unless an exception applies.</i> - <i>checking policy and processes in compliance departments and confidential counsellors (in the case of bigger firms);</i> - <i>carrying out financial checks (e.g. of clients' accounts);</i> - <i>organising courses and training programmes on integrity and measuring integrity.</i> <p>T1.B2. Exchange of signals</p> <p><u>Good practice:</u> <i>Being alert to lawyers who have exhibited recidivist conduct "returning" to or "moving" to a particular judicial district and actively informing other local bar presidents about this.</i></p> <p>T3.B3. Interim adjustments</p> <p><u>Good practice:</u> <i>In the case of signals about financial vulnerability, assess whether an investigation is needed into the quality and expertise of the lawyer in question.</i></p>	<p>T1.C1. Reporting The local bar presidents reports on what he or she has done in response to serious complaints about the quality of a lawyer (e.g. how many instances? What was the input and output? What was the outcome?). Where possible, the local bar president backs up his or her report with quantitative information.</p> <p><u>Good practice:</u></p> <ul style="list-style-type: none"> - <i>Disclose how many lawyers have had themselves struck off the roll due to matters of integrity, following a disciplinary decision or at the local bar president's instigation.</i> - <i>Disclose how many clear breaches of integrity there have been by lawyers and the measures taken in response.</i> - <i>Provide information on what the local bar president does/has done in response to serious complaints about the quality of a lawyer, and what the local bar president does/has done in response if his or her investigation has not made the actual course of events clear.</i> <p>T2.C2. Reflection The local bar president reflects on the following fundamental matters:</p> <ul style="list-style-type: none"> - the development of quality and expertise of the legal profession. What do his or her visits, investigations and measurements reveal about the development of quality and expertise in the judicial district? - the success of the risk-based approach. Are the risk hypotheses correct? E.g. have issues occurred more frequently among risk-based lawyers than among other lawyers?

T2 The lawyer's compliance with the Money Laundering and Terrorist Financing (Prevention) Act

Context What the local bar presidents supervise	The board assesses the local bar presidents' annual plans	The board assesses the local bar presidents' supervision work	The board assesses the local bar presidents' reporting work
<p>Professionalism According to the Money Laundering and Terrorist Financing (Prevention) Act, lawyers must carry out client screening in the case of certain designated services and, in the context of those services, report any planned or completed unusual transactions. (Section 2, chapters 2 and 3 of the Money Laundering and Terrorist Financing (Prevention) Act).</p> <p>Adequacy The lawyer takes measures to prevent the risk of money laundering and terrorist financing. (Section 2b – 2d of the Money Laundering and Terrorist Financing (Prevention) Act).</p>	<p>T2.A1. Annual plan Every year, the local bar president determines where the focus of his or her work will lie and sets specific targets, for example in the following areas:</p> <ul style="list-style-type: none"> - being constantly alert to compliance with the Money Laundering and Terrorist Financing (Prevention) Act in all of his or her visits to firms; - stimulating the number of reports under the Money Laundering and Terrorist Financing (Prevention) Act; and - raising lawyers' consciousness and knowledge of the Money Laundering and Terrorist Financing (Prevention) Act. <p>T2.A2. Risk analysis When assessing controls under the Money Laundering and Terrorist Financing (Prevention) Act, the local bar president aims in any case to examine firms that have a high percentage of services relating to the Money Laundering and Terrorist Financing (Prevention) Act or firms that have been the subject of complaints relating to the Money Laundering and Terrorist Financing (Prevention) Act (e.g. complaints about cash payments).</p> <div data-bbox="533 1054 969 1265" style="border: 1px solid black; padding: 5px;"> <p><u>Good practices:</u></p> <ul style="list-style-type: none"> - Stimulate a broad risk analysis by the Legal Profession Final Supervision Unit (FTA) and regularly carrying out theme-based investigations; - Actively use the outcomes of theme-based investigations to select firms to be visited for risk-control purposes. </div>	<p>T1.B1. Regular activities For regular activities, the local bar president uses the expertise of the FTA Unit as he or she sees fit.</p> <div data-bbox="1010 432 1460 715" style="border: 1px solid black; padding: 5px;"> <p><u>Good practices:</u></p> <ul style="list-style-type: none"> - Always inspect records relating to the Money Laundering and Terrorist Financing (Prevention) Act and assess risk policies relating to the act; - Include specific questions about compliance with the Money Laundering and Terrorist Financing (Prevention) Act in the CCV questionnaire; - Organise courses and seminars on the Money Laundering and Terrorist Financing (Prevention) Act to increase knowledge and consciousness of it. </div> <p>T1.B2. Exchange of signals The local bar president always follows up signals about possible non-compliance with a lawyer's compliance with the Money Laundering and Terrorist Financing (Prevention) Act.</p> <div data-bbox="1010 874 1460 1082" style="border: 1px solid black; padding: 5px;"> <p><u>Good practice:</u></p> <p>Cooperating and sharing knowledge with other supervisors and authorities on supervision of the Money Laundering and Terrorist Financing (Prevention) Act (e.g. the Financial Supervision Office (BFT), the Gaming Authority, the Authority for the Financial Markets (AFM) and the Financial Intelligence Unit (FIU).</p> </div> <p>T3.B3. Interim adjustments</p> <div data-bbox="1010 1137 1460 1241" style="border: 1px solid black; padding: 5px;"> <p><u>Good practice:</u></p> <p>The local bar president visits every firm for which he or she has received a signal about payments in cash.</p> </div>	<p>T1.C1. Reporting</p> <div data-bbox="1494 403 1921 587" style="border: 1px solid black; padding: 5px;"> <p><u>Good practice:</u></p> <p>Report on visits (and the number of them) to firms with a high percentage of service provision relating to the Money Laundering and Terrorist Financing (Prevention) Act and firms that have been the subject of complaints relating to the act.</p> </div> <p>T2.C2. Reflection The local bar president reflects on the following fundamental matters:</p> <ul style="list-style-type: none"> - what is the situation as regards the knowledge and consciousness of and compliance with the Money Laundering and Terrorist Financing (Prevention) Act? What do trends in figures and further investigations reveal? - is there any reason to structure the supervision of compliance with the Money Laundering and Terrorist Financing (Prevention) Act differently than in the preceding year? - are there discernible and distinct trends with regard to risks relating to the Money Laundering and Terrorist Financing (Prevention) Act? <div data-bbox="1494 1034 1921 1209" style="border: 1px solid black; padding: 5px;"> <p><u>Good practice:</u></p> <p>Determine whether organised study programmes and (refresher) courses raise more questions at the expertise centre on the Money Laundering and Terrorist Financing (Prevention) Act or more reports of unusual transactions.</p> </div>

T3 Financial position of the lawyer

Context What the local bar presidents supervise	The board assesses the local bar presidents' annual plans	The board assesses the local bar presidents' supervision work	The board assesses the local bar presidents' reporting work
<p>Integrity <i>The lawyer is ethical and refrains from any acts or omissions not befitting a professional lawyer. This includes financial integrity.</i></p> <p><i>(Key values of the legal profession, Article 10a(1)(d) of the Act on Advocates)</i></p> <p>Clarity <i>The lawyer adheres to the Legal Profession Regulations ("Voda") and the Rules of Conduct as regards his or her fee, pricing arrangements and invoicing.</i></p> <p>Adequacy <i>The lawyer's office and financial records are properly organised.</i></p> <p><i>(Voda chapter 6, sections 6.1, 6.2, 6.5- 6.7). This includes the handling of clients' accounts.</i></p>	<p>T2.A1. Annual plan Every year, the local bar president determines where the focus of his or her work will lie and sets specific targets, for example in the following areas:</p> <ul style="list-style-type: none"> - monitoring lawyers' careful handling of clients' funds and the costs they charge their clients for their work; - early acknowledgement of any problems that law firms have with finances and accounts, thus enabling adjustments; and - monitoring clients' interests if a firm's continuity is in jeopardy. <p>T2.A2. Risk analysis When assessing financial soundness, the local bar president in any case takes account of objective criteria such as solvency, profitability and liquidity. The local bar president's goal in his or her risk-based use of resources is also to give consideration to the outcomes of recent theme-based investigations.</p> <div data-bbox="533 951 969 1082" style="border: 1px solid black; padding: 5px;"> <p><u>Good practices:</u> <i>Stimulate comparative analyses of lawyers' financial position and have them carried out, e.g. comparisons between judicial districts and legal areas or between firms of a similar size.</i></p> </div>	<p>T1.B1. Regular activities The local bar president uses the expertise of the FTA Unit. The FTA Unit must always be deployed when requesting key figures and visiting firms.</p> <div data-bbox="1010 456 1460 767" style="border: 1px solid black; padding: 5px;"> <p><u>Good practices:</u></p> <ul style="list-style-type: none"> - When visiting firms, assess financial documents and check account statements of the clients' funds foundation covering at least six months; - Pay extra attention to monitoring of financial operations of recently established firms - In the case of a "red flag indication" (firm with financial problems), consider whether further investigation of the quality and expertise of the lawyer in question is needed. - See Best Practices for Visits to Firms (Best Practices Kantoorbezoeken). </div> <p>T1.B2. Exchange of signals</p> <p>T3.B3. Interim adjustments</p> <div data-bbox="1010 874 1460 983" style="border: 1px solid black; padding: 5px;"> <p><u>Good practice:</u></p> <ul style="list-style-type: none"> - Supervise continued handling of clients' ongoing cases, if necessary by transferring them to other lawyers if the continuity of a firm is in jeopardy. </div>	<p>T1.C1. Reporting</p> <div data-bbox="1494 400 1917 509" style="border: 1px solid black; padding: 5px;"> <p><u>Good practice:</u> <i>Disclose the number of firms that have become insolvent compared to the preceding year.</i></p> </div> <p>T2.C2. Reflection The local bar president reflects on the following fundamental matters:</p> <ul style="list-style-type: none"> - What developments are there in the financial soundness and financial integrity of legal profession? What policy is suggested on the basis of the key figures and further investigations? - How well is the risk-based approach working? To what extent have key figures, signals and assumptions proved to be indicative and predictive for problems regarding the financial health and financial integrity of lawyers? <div data-bbox="1494 874 1917 1007" style="border: 1px solid black; padding: 5px;"> <p><u>Good practice:</u> <i>The local bar president reflects on whether there was reason for him or her to structure supervision of the financial soundness of firms differently.</i></p> </div> <p><i>Learn from the risk-based approach taken by similar supervision bodies such as the AFM and the Financial Supervision Office.</i></p>

T4 Complaints handling by the local bar president

Context What the local bar presidents supervise	The board assesses the local bar presidents' annual plans	The board assesses the local bar presidents' supervision work	The board assesses the local bar presidents' reporting work
<p>Consistency <i>Complaints about lawyers are submitted in writing to the relevant local bar president. At the complainant's request, the local bar president will assist him or her with drafting the complaint.</i></p> <p><i>The local bar president investigates every complaint submitted to him or her.</i></p> <p><i>(Article 46c of the Act on Advocates)</i></p> <p>Effectiveness <i>The local bar president always endeavours to resolve complaints amicably.</i></p>	<p>T2.A1. Annual plan Every year, the local bar president determines where the focus of his or her work will lie and sets specific targets, for example in the following areas:</p> <ul style="list-style-type: none"> - monitoring the interests of clients when dealing with and settling complaints; and - supervising the quality and integrity of the lawyer when dealing with complaints. <p>T2.A2. Risk analysis Risk-based supervision entails the local bar president examining questions such as:</p> <ul style="list-style-type: none"> - What types of complaints has he or she received over the past year and what can he or she learn from them (e.g. whether the number of complaints relating to the Money Laundering and Terrorist Financing (Prevention) Act has increased or decreased, and whether there is an explanation for this); - What complaints he or she might <i>not</i> have received (e.g. if a local bar president has received far fewer complaints relating to the Money Laundering and Terrorist Financing (Prevention) Act than a fellow local bar president in a similar judicial district, he or she will then ascertain whether there is an explanation for that). <div data-bbox="528 1107 969 1238" style="border: 1px solid black; padding: 5px;"> <p><u>Good practice:</u> <i>Stimulate comparative analyses of lawyers' financial position and have them carried out; e.g. comparisons between judicial districts and legal areas or between firms of a similar size.</i></p> </div>	<p>T1.B1. Regular activities The local bar president's regular activities constitute an appropriate implementation of the annual plan, e.g. the decisions on which firms to visit and which not to visit, or between a general discussion or further study of at least three dossiers;</p> <ul style="list-style-type: none"> - The support provided by the local bar presidents and the bar is quantitatively and qualitatively adequate; - Policy and implementation by the local bar presidents guarantee consistent assessment and actions. <div data-bbox="1003 663 1458 1031" style="border: 1px solid black; padding: 5px;"> <p><u>Good practices:</u></p> <ul style="list-style-type: none"> - <i>Be thorough when putting together dossiers on complaints and signals (provide the complainant with clear information, court documents and, for example, the local bar president's substantiation of objections);</i> - <i>Enforce deadlines for the lawyers on handling complaints in accordance with the guidelines on handling complaints;</i> - <i>For the local bar president concerned: help to harmonise and establish and, accordingly, formulate a consistent position taken by the local bar president.</i> </div> <p>T1.B2. Exchange of signals</p> <div data-bbox="1003 1086 1458 1166" style="border: 1px solid black; padding: 5px;"> <p><u>Good practice:</u> <i>Investigate signals and complaints from chain partners immediately and thoroughly.</i></p> </div> <p>T3.B3. Interim adjustments</p> <div data-bbox="1003 1246 1458 1350" style="border: 1px solid black; padding: 5px;"> <p><u>Good practice:</u> <i>In principle, do not grant repeated postponements to a lawyer if a complaint is about that lawyer having acted too slowly.</i></p> </div>	<p>T1.C1. Reporting</p> <div data-bbox="1487 400 1917 480" style="border: 1px solid black; padding: 5px;"> <p><u>Good practice:</u> <i>Disclose and report on the "final figures" for the settlement of complaints and s-files.</i></p> </div> <p>T2.C2. Reflection The local bar president reflects on the following fundamental matters:</p> <ul style="list-style-type: none"> - What is the current state of affairs regarding complaints handling? What policy is suggested on the basis of the key figures and further investigations? - Was there any reason to structure complaints handling differently than in the preceding year? - Are there discernible and distinct trends as regards the types of complaints (e.g. increased number of complaints about breaches of the legal profession's key values)?