

Risk assessment

Anti-money laundering and terrorist financing

2 March 2018

Read our report: Preventing Money Laundering and Financing of Terrorism [[/sra/how-we-work/reports/preventing-money-laundering-financing-terrorism/](#)]

What is the purpose of this document?

This document sets out information on money laundering and terrorist financing risk that we consider relevant to those we supervise.

Money laundering is the means by which criminals make the proceeds of crime appear legitimate. The National Crime Agency (NCA) believes that money laundering costs the UK £24 billion a year¹ [#n1]. Through preventing money laundering, we can take away criminals' incentives to traffic weapons, trade drugs or engage in human trafficking. Money laundering also includes the funding of terrorism, irrespective of the source of funds. So by preventing money laundering we help reduce corruption and create a better, safer society.

The SRA is responsible for the supervision of anti-money laundering (AML), and we take our responsibilities very seriously. We owe a duty to society at large, and to protect the integrity of the legal sector through tackling professional enablers of money laundering. If the UK legal sector is to remain a trusted profession, we must work to identify those who would willingly help money launderers, and inform and educate those who might be unwittingly used by criminals.

This is the first AML sectoral risk assessment published by the SRA, and we will refresh it on a regular basis to keep up-to-date with emerging risks and trends.

The sectoral risk assessment should form the basis for firms' own risk assessments along with the national risk assessment² [#n2] and a comprehensive knowledge of their services, clients and delivery channels.

The risk-based approach is embedded in UK legislation and AML best practice. It means that firms should target their resources to the areas or products that are most likely to be used to launder money. Similarly, the SRA takes a risk-based approach to direct our resources to have the most intense supervision of the firms that are most likely to be used to launder money. We will ask to see firms' written risk assessment as part of our routine monitoring programme, or in response to specific information we have received. Your firm's risk assessment should not be disclosed to customers, or third parties.

Who does it apply to?

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017³ [#n3] ("the money laundering regulations") place obligations on firms offering services that are most likely to be targeted by those wishing to launder money.

These include independent legal professionals⁴ [#n4], and trust or company service providers⁵ [#n5]. All firms that are within scope of the money laundering regulations must take appropriate steps to identify and assess their risk of being used for money laundering or terrorist financing. The firm's risk assessment must be in writing, and when preparing it, you must take into account this risk assessment prepared by the SRA in the role of your AML supervisor.

Risk in the legal sector

The 2017 national risk assessment said:

Legal services remain attractive to criminals due to the credibility and respectability they can convey, helping to distance funds from their illicit source and integrate them into the legitimate economy.

The national risk assessment goes on to say that although there is some deliberate involvement in money laundering within the legal sector, the majority of cases are due to either negligence or wilful ignorance. But professional enablers are crucial to successful money laundering and therefore it is essential that the legal profession and its regulator disrupt and prevent such activity.

As such, the national risk assessment rated the legal sector as high risk of being used for money laundering, although low risk of being used for terrorist financing. In particular, the risk assessment identifies solicitors as being at a high risk of money laundering because of the range of high risk services they may offer.

Criminals may use a combination of legal services to add layers of complexity to a transaction. They may also use Chinese Walls (or information barriers) within a law firm, or several legal firms to separate instructions which, taken together, might raise suspicion. The National Risk Assessment also raised instances of lawyers falsely claiming legal professional privilege as posing a risk to the law enforcement response to preventing money laundering. The National Risk Assessment went on to say:

The government recognises that legal professional privilege is a vital part of the UK's legal system and that ensuring that it is applied correctly in all circumstances is important in mitigating money laundering risk

None of the risk factors below are reason alone for the legal sector to withdraw from operating in these ways or offering these services. We expect firms to be aware of the risk, manage it properly and keep themselves and the public safe. Done properly these are all services that help the legal market meet the legitimate needs of society. Firms that design and operate sound risk management systems have little to fear. The SRA will not tolerate firms that are cavalier about preventing money laundering, putting their practices and society at risk.

Risk factors

Risk is the likelihood of money laundering or terrorist financing taking place through your firm. Risk refers to the inherent level of risk before any mitigation – it does not refer to the residual risk that remains after you have put mitigation in place. Risk can exist in isolation, or through a combination of factors that increase or decrease the risk posed by the client or transaction. The different types of risk factors that we consider to be significant for firms we regulate are set out below.

Product and services risk

A large amount of solicitors' money laundering risk depends on the services, or combination of services they offer. The 2017 national risk assessment identifies the following as posing the highest risk of being used for money laundering:

- trust and company formation
- conveyancing
- client account services

Based on our supervisory work and analysis, we agree that these services pose the highest risk.

What	Why
conveyancing	Property is an attractive asset for criminals because of the large amounts of money that can be laundered through a single transaction, and the fact that property will tend to appreciate, or can be used to generate rental income. Approximately half of the suspicious activity reports (SARs) made by the legal sector relate to property transactions, indicating that this is a common way for criminals to seek to launder money.
client accounts	Solicitors are held in a position of trust, and their client account can be viewed as a way of making criminal funds appear to have a genuine source. Criminals target client accounts as a way of moving money from one individual to another through a legitimate third party under the guise of a legal transaction without attracting the attention of law enforcement agencies. You must never allow your client account to be used as a banking facility, or to pass funds through it without a legitimate underlying legal transaction. Firms should be aware of any attempt to pay funds into a client account without a genuine reason, or to get a refund of funds from a client account (particularly to a different account from which the original funds were paid). It is a good idea not to make the details of your client account visible (for example through including them in engagement letters) and to provide them only upon request once client due diligence has been completed.
creating or managing trusts and companies	Trusts or corporate structures which facilitate anonymity can help disguise the source or destination of money or assets. Law enforcement have flagged that many investigations of money laundering lead to opaque corporate structures, used to hide the beneficial owner of assets.

Client risk

Each client is different, and each will have their own particular risk-profile. There are a number of different factors that increase the risk of money laundering presented by clients. Warning signs include clients that appear to want anonymity, clients acting outside their usual pattern of transactions, clients whose identity is difficult to verify or who are evasive about providing ID documents. The risk posed by your client also extends to the risk posed the beneficial owner, if applicable.

What	Why
Politically exposed persons (PEPs)	The 2017 Money Laundering Regulations updated the definition on PEPs so that individuals from the UK are now included, whereas previously the definition was restricted to overseas individuals. Generally speaking, PEPs have access to public funds and the money laundering regulations require PEPs and their close families and associates to be identified and require extra checks to mitigate the risks of corruption. The money laundering regulations require firms to be able to identify PEPs and associates,

What	Why
Customers from cash-intensive/risky sectors or businesses	The nature of the customer's business might increase risk if it is cash-intensive and therefore presents a greater risk of disguising illegal funds within legitimate payments. The customers' sector or area of work is also a significant risk factor, in particular if they are associated with those with a higher risk of corruption or being used for money laundering, for example those from the arms trade or casinos.
Clients seeking anonymity or who cannot prove their identity	Clients who are seeking anonymity on behalf of themselves, a third party or beneficial owner may be seeking to launder money. In some circumstances it might be natural that a client cannot produce identification documents, for example elderly people or illegal immigrants. Clients who are evasive about proving their identity or who produce non-standard documentation might be considered higher risk, if there is no good explanation for this.

Transaction risk

There are a number of factors that might make an individual transaction higher risk. Much of identifying risk is being alert for unusual activity or requests that don't make commercial sense. The use of cash, either as part of a transaction or for payment of fees is inherently higher risk, and it is a good idea to have a policy on what amount of cash you will accept, and in what circumstances.

What	Why
Size and value of the transaction	Money launderers incur a risk with each transaction, and so criminals may seek large or high value transactions to launder as much money as possible in one go. If there is no good explanation for an unusually large transaction, or a client is seeking to make a number of linked transactions this presents a higher risk.
Payment type	Cash and some electronic currencies can facilitate anonymity and enable money laundering. There may be legitimate reasons that a client wants to pay in cash, however this must be considered higher risk because it has not passed through the banking system and is often untraceable.
Transactions that don't fit with your firm or client's normal pattern	Firms will know what their specialisms are and what services they normally provide. In addition, initial client due diligence should include gathering some information on the expected ongoing client relationship. If a new or existing client is requesting transactions or services that you wouldn't normally expect your firm to offer, you might consider this suspicious if there is no obvious reason for the request. Similarly, if a client is requesting services which are not in line with your original customer due diligence or are out of their normal pattern of transactions, without a good reason, you should consider whether this constitutes suspicious behaviour. We would expect firms to have a reasonably good knowledge of the types of services clients will use and to be alert for requests that don't fit the normal pattern.
Transactions or products that facilitate anonymity	Accurate and up-to-date information on beneficial owners is a key factor in preventing financial crime and tracing criminals who try to hide their identity behind corporate structures. Increased transparency reduces the risk of money laundering. Firms should be alert to customers seeking products or transactions that would facilitate anonymity and allow beneficial owners to remain hidden without a reasonable explanation.
New products, delivery mechanisms or technologies	the changing nature of money laundering means that criminals are always seeking new ways to launder funds as old ways become too risky and loopholes are closed. Moving into a new business area or providing a new delivery channel for services means your firm may come across new or previously unidentified risks. In moving into a new area, you will not necessarily have a previous pattern of transactions with which to compare new behaviour that might be suspicious. Criminals might target firms moving into new areas, because of the perception that AML policies and procedures are new and untested. Criminals might seek to target loopholes in new technology before they are identified and closed.
Complex transactions	Criminals can use complexity as a way of obscuring the source of funds or their ownership. Firms should make sure that they fully understand the purpose and nature of a transaction they are being asked to undertake. You should make further enquiries or seek expertise if unsure. Simply proceeding with the transaction as asked without understanding the purpose and details increases the risk of money laundering.

Delivery channel risk

The way in which you deliver your services can increase or reduce risk to the firm. Transparency tends to reduce risk and complexity tends to increase it.

What	Why
Remote clients	Not meeting a client increases the risk of identity fraud and may help facilitate anonymity. Not meeting a client face-to-face may make sense in the context of the transaction, but clients who appear evasive about meeting in person might be cause for concern. The risk posed by remote clients can be somewhat mitigated by the use of safeguards such as electronic signatures.
Combining services	Some services might not be inherently high risk, but when combined with other services or transactions become risky. For example, there might be legitimate reasons for setting up a company, but if that company is used to purchase property and disguise its beneficial owner, this increases the risk of money laundering. Clients may take steps to hide the combination of services they are using, for example through enquiring about, and taking advantage of Chinese walls (or information barriers), through using separate firms, or through allowing a significant amount of time to pass between transactions so they appear unlinked.
Payments to or from third parties	Money launderers can seek to disguise the source of funds by having payments made by associates or third parties or have payments made to third parties. This is a way of disguising assets and you should make sure you always identify the source of funds and source of wealth. A payment to or from a third party is particularly suspicious if it is unexpected, or claimed that it was made in error with a request for the

What	Parents gifting a house deposit to their child. You should ensure you do appropriate due diligence on the source of funds and wealth and the reason behind the payment before accepting funds.
Why	money to be refunded. There may be some legitimate reasons for third party payments, for example

Geographical risk

When assessing geographical risk, you should consider the jurisdiction in which services will be delivered, the location of the client, and that of any beneficial owners as well as the source and destination of funds. In some jurisdictions the sources of money laundering are more common, for example the production of drugs, drugs trafficking, terrorism, corruption, people trafficking or illegal arms dealing. Countries with anti-money laundering and counter-terrorist financing regimes which are equivalent to the UK may be considered lower risk.

What	Why
Countries that do not have equivalent AML standards to the UK	The money laundering regulations require firms to put in place enhanced due diligence measures in dealing with countries that have not implemented FATF recommendations, identified by credible sources such as FATF, the International Monetary Fund or World Bank. The Financial Action Taskforce (FATF) maintains the list of high risk jurisdictions [http://www.fatf-gafi.org/countries/#high-risk].
Countries with significant levels of corruption	The money laundering regulations require firms to put in place enhanced due diligence measures in dealing with countries with significant levels of corruption or other criminal activity, such as terrorism. Transparency International also produces the annual corruption index [http://www.transparency.org/country].
Countries with organisations subject to sanctions	The money laundering regulations require firms to put in place enhanced due diligence measures in dealing with countries subject to sanctions, embargos or similar measures. In the UK, the Office of Financial Sanctions Implementation maintains a list of all those subject to financial sanctions [http://www.gov.uk/government/collections/financial-sanctions-regime-specific-consolidated-lists-and-releases]. You can also subscribe to an email alerting you to any changes.

Next steps

The SRA will seek to keep this risk assessment up-to-date, taking into account new information from government, law enforcement and our regulatory regime. Firms should have regard to this risk assessment, and any updates, when creating and maintaining their own written risk assessment required in Regulation 18(1) of the money laundering regulations. The SRA may ask to see your firm's risk assessment as a part of routine monitoring visits, or in response to information received.

The SRA publishes more information on preventing money laundering and terrorist financing [[/home/hot-topics/anti-money-laundering/](#)].

Notes

1. National Crime Agency Money Laundering Page [<https://nationalcrimeagency.gov.uk/what-we-do/crime-threats/money-laundering-and-terrorist-financing>]
2. National Risk Assessment of Money Laundering and Terrorist Financing 2017 [http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/655198/National_risk_assessment_of_money_laundering_and_terrorist_financing_2017_pdf_web]
3. The Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017 [<http://www.legislation.gov.uk/uksi/2017/692/regulation/11/made>]
4. "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.
5. "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