

Money laundering

Last updated 10 January 2020

Keeping the profession free of money laundering is in everyone's interest. It is a key way of disrupting serious crime - crime that funds everything from terrorists to people traffickers. It is not a victimless crime.

Money laundering is a priority risk [\[risk/outlook/priority-risks/anti-money-laundering/\]](#) for us. The credibility of law firms make them an obvious target for criminals. The overwhelming majority of solicitors want to do the right thing. Yet that alone is not enough. Weak processes or undertrained staff can leave the door open for criminals.

Money laundering information

Guidance and warnings

The fifth Anti-money Laundering Directive (PDF 38 pages, 895KB) [\[http://www.legislation.gov.uk/uk/si/2019/1511/made/data.pdf\]](http://www.legislation.gov.uk/uk/si/2019/1511/made/data.pdf) was published on 10 January 2020.

The Legal Services Affinity Group (LSAG) is producing guidance on the regulations which we will publish here soon. In the interim, a summary guidance of changes to the regulations (PDF 5 pages, 197KB) [\[globalassets/documents/solicitors/firm-based-authorisation/interim-legal-sector-affinity-group-guidance.pdf?version=4985da\]](#) has been produced to help firms comply with the new requirements.

LSAG has produced guidance (PDF 156 pages, 1.4MB) [\[globalassets/documents/solicitors/code/lisag-anti-money-laundering-guidance.pdf?version=498304\]](#) on complying with your anti-money-laundering obligations.

We have produced guidance [\[solicitors/guidance/money-laundering-terrorist-financing-transfer-funds-information-payer-regulations-2017/\]](#) that accompanies this.

We have developed a risk assessment [\[sra/how-we-work/reports/aml-risk-assessment/\]](#) for the legal sector.

We have issued warning notices on money laundering, reminding everyone in the profession of their obligations, including:

- Warning notice: Compliance with the money laundering regulations – firm risk assessment [\[solicitors/guidance/warning-notices/compliance-with-the-money-laundering-regulations-firm-risk-assessment-warning-notice/\]](#)
- Warning notice: Improper use of client account as a banking facility [\[solicitors/guidance/improper-client-account-banking-facility/\]](#)
- Warning notice: Money laundering and terrorist financing [\[solicitors/guidance/money-laundering-terrorist-financing/\]](#)

Suspicious Activity Reports

All solicitors need to understand what they need to do under the Proceeds of Crime Act 2002 and Terrorism Act 2000.

If you have a suspicion that your firm is being used to launder money, your Money Laundering Reporting Officer (MLRO) must submit a SAR to the National Crime Agency (NCA). It's

important that everyone understands their responsibilities and their firm's processes.

The NCA have concerns about the number and quality of SARs being submitted by law firms, and have produced guidance to help you, including:

- SARs Regime Good practice (PDF 15 pages, 238KB) [<https://nationalcrimeagency.gov.uk/who-we-are/publications/167-defence-against-money-laundering-daml-faq-may-2018/file>]
- Guidance on submitting better quality SARS (PDF 23 pages, 397KB) [<https://www.nationalcrimeagency.gov.uk/who-we-are/publications/446-guidance-on-submitting-better-quality-sars-1/file>]
- The correct glossary codes for reporting (PDF 1 page, 132KB) [<https://www.nationalcrimeagency.gov.uk/who-we-are/publications/451-glossary-codes-and-reporting-routes-may-2020/file>]

We have also published a Warning notice: Money laundering and terrorist financing - suspicious activity reports [[/solicitors/guidance/money-laundering-terrorist-financing-suspicious-activity-reports/](#)].

Good practice and legal sector reviews

We have also carried out a number of recent reviews into how firms are doing including:

- a review of whether firms are complying [[/sra/news/press/2019-press-release-archive/aml-warning-notice-guidance/](#)] with anti-money laundering regulations by having an appropriate firm risk assessment in place
- a thematic review of law firms [[/sra/how-we-work/reports/aml-thematic-review/](#)] providing trust and company services to see if they are doing enough to prevent money laundering.
- A 2018 thematic review of how firms are operating [<https://www.sra.org.uk/link/d2e2a1264d094353996dbc7ab1582ef8.aspx>] in light of the new Government regulations, identifying good and poor practices.

These documents add to previous, similar resources. Such as our 2016 report on money laundering in the profession (PDF 37 pages, 316KB) [[/globalassets/documents/sra/research/anti-money-laundering-report.pdf?version=4a1ab0](#)].

Information on people within your firm

We need to hold information on those working in the profession that hold certain roles.

[Change your information](#) [[/solicitors/firm-based-authorisation/anti-money-laundering-authorisation/](#)]

- Who needs approval [#7004]
- Who to contact [#2924]

Definition of positions

This guidance is to assist firms when deciding who in their firm falls under the definitions of beneficial owner, manager and officer contained in The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR).

While we want to assist you in interpreting the Government regulations, you will of course need to satisfy yourself on the legal position. The obligation to identify who are your beneficial owners, officers and managers is on you as a firm. If having read this guidance you are still

unsure, you should consider obtaining specialist advice on your position.

Open all [#]

Beneficial Owner

While the MLR definition of 'beneficial owner' and our definition of owner differ, in practice we believe it is unlikely there will be any 'beneficial owners' not already approved by us, provided you have kept your records up to date. We have formulated some guidance to try and help your firm determine who these individuals are.

If you are a "body corporate" (ie company (not listed) or a limited liability partnership (LLP)):

A beneficial owner is:

- a. any individual who exercises ultimate control over the management of the body corporate

This would mean an individual who, regardless of their position as director, shareholder or member is able to exercise control over the management of the body corporate in the sense of being able to control the composition and/or voting of the board of directors and the decisions they take.

- b. any individual who ultimately owns or controls (in each case whether directly or indirectly), including through bearer share holdings or by other means, more than 25 percent of the voting rights in the body corporate

This means an individual who owns 25 percent or more of the voting rights in the body corporate. They could hold these rights directly, in their own name, or indirectly, for example, via a relative or a company.

- c. an individual who controls the body corporate.

A person will control the body corporate if they qualify as a Person of Significant Control in accordance with the Companies Act 2006, or, if the person was an undertaking, the body corporate would be its subsidiary.

Guidance and examples on what constitutes exercising control:

For companies

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/621687/psc-statutory-guidance-companies.pdf]

For LLPs

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/523122/Draft_statutory_guidance_LLPs.pdf]

If you are a partnership

Our glossary definition of partner is wide, as we authorise all partners regardless of the level of interest they hold in the firm (and regardless of whether they are in fact a partner). Our definition of partner includes those who are held out as a partner by the firm, including 'salary partners', and therefore employees of the business having the job title "partner", but who do not actually hold equity in the firm.

Therefore, in our view all beneficial owners in a partnership will already be authorised by us,

by our definition of owner. You will just need to ensure all partners' details are correct and included in your AML application.

Officer

The definition of "officer" in the MLR regulations is wider than those individuals who are legal officers of the company, or a "manager" as per our glossary definition. You will therefore need to consider the definition applicable to the entity of your firm. We set out some guidance below, however we would stress that the question of who is an officer in your firm is dependent on the individual management structure of each firm.

We cannot provide a list of job titles that would meet the definition of "officer" under the regulations, as it is a question of fact as to whether an individual exercises control, or purports to exercise control. In our view, an individual would not be purporting to have control simply by their job title, there would still need to be some element of control.

For example, an office manager who makes decisions on behalf of the managing partner and the managing partner allows this to happen without supervision or review is likely to be a person purporting to act as a controller.

If you are a company (not listed) or LLP:

An officer includes director, secretary, chief executive, member of the committee of management, or a person purporting to act in such a capacity, or an individual who is a controller of the body, or a person purporting to act as a controller.

If you have any directors, a company secretary or a Chief Executive that are not already approved, they will need approval and to be included in your application. You must also have approval for those who sit on either the most senior decision-making committee in your business (such as a board, an executive committee or an executive board in each case where there is no higher committee or board to defer to or to seek approval from) or a committee that has been given the authority to make decisions on behalf of the board/senior decision-making committee.

An officer under this definition may consist of lawyer and non-lawyer employees such as HR and/or finance directors. In terms of who would have 'control' of the body, consider the persons of significant control guidance found above in relation to beneficial owners.

If you are a partnership:

Means a partner, and any manager, secretary or similar officer of the partnership, or a person purporting to act in such a capacity.

Given that we approve all partners in a partnership it is unlikely that there will be anyone in the MLR Regulation definition that has not been approved. However, you must consider the MLR definition above, and satisfy yourself as to whether anyone else in your firm is a manager, secretary or person purporting to act in such a capacity not already approved by us.

Manager

The MLR definition is wider in scope than any of the persons we already authorise. It also appears that it is intended to be wider than the MLR definition of "officer". Again, each firm will need to consider their own management structure against the below definition.

In relation to a firm, means a person who has control, authority or responsibility for managing the business of that firm, and includes a nominated officer.

This would include any person who has sufficient authority to take decisions and who exercises control over the management of the business. It includes your Money Laundering

Reporting Officer (MLRO) and any others who have sufficient knowledge of your firm's money laundering and terrorist financing risk exposure and have the authority to take decisions around this.

Who to contact

If you want advice about the questions, you can contact our Professional Ethics Guidance helpline [\[home/contact-us/\]](#).

If you need help with the form, call our Contact Centre [\[home/contact-us/\]](#).