



Regulating
Property
And
Probate
Lawyers

AML Client and Matter Risk Assessments **October 2021**





2017 Money Laundering Regulations (MLRs)

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 came into force on 26 June 2017 and built on the 2007 Regulations.



Fifth Money Laundering Directive (5MLD):

The Fifth Money Laundering Directive came into force on 10 January 2020 and was implemented into UK law by the Money Laundering and Terrorist Financing (Amendment) Regulations 2019.



2021 LSAG Guidance:

This guidance, created by the UK Legal Sector Affinity Group, provides best-practice advice on complying with the money laundering regulations, including 5MLD. LSAG is made up of all legal sector regulators, including the CLC.



Risk Assessments

In addition to a Practice-Wide Risk Assessment, CLC practices must have client and matter level risk assessments in place for every client and most matters (LSAG Chapter 5 and Regulations 18 and 28). Your PWRA must inform your client and matter risk assessments.

Relevant CIC Codes

AML/CTF Code: 3. You systematically identify and mitigate risks to the business and to Clients (CoC Overriding Principle 2f).



Money Laundering Risk Assessment Templates

The factors posed on the following pages should be considered when assessing the risk of the client and/or the transaction. Please use the notes column to summarise observations/assessment of risks involved where the issue is applicable to the client/transaction being considered. You must record a client risk assessment for every client as part of Client Due Diligence. **Not all questions will be relevant or applicable to all situations and, conversely, the questions outlined are non-exhaustive. You should adapt this template for your business and take into account the factors outlined in Regulation 28(13).**

Client Risk Assessment

Analysis



Status of Client

- Is your client known to you personally and/or is an existing client, or is this a new business relationship?
- Has your client been introduced to you by a 3rd Party?
- Is the instruction from your client channelled through a 3rd party? If so, why?
- Is your client a politically exposed person (PEP)?
- Does your client work in a higher risk sector (for example sectors such as unregulated charities/arms manufacturing/gambling)?
- If your client is not a natural person but rather a legal entity, do you have full visibility and ID&V of beneficial owners and directors / controllers?
- Are there any issues in identifying the beneficial owners (for example if a complex corporate structure is being used)?



Face to Face Contact

- Have you met with your client face to face or is it a non-face to face transaction?
- If non face to face, are you confident that you can mitigate the risks of fraud?
- If non-face to face what measures have you implemented to be assured of their identity?



Location of Client

- Where is your client based? Locally/UK/EU/other international location?
- Are you aware of your client having any links to criminality?
- Is your client based in a high-risk jurisdiction or resident in/links to a sanctioned country? (please see the LSAG Guidance at page 40 for a list of factors).



ID & Address Verification

- Has your client provided acceptable standard ID and address verification?
- Has your client provided acceptable non-standard ID and address verification?
- If using s.39 reliance (obtaining certified copies of ID & address verification – 2017 Regs), have you been able to confirm the authenticity/professional status of the certifier?
- Has your client been cooperative in the process or have they delayed providing ID and address verification / appeared reluctant to do so?



Electronic AML Checking

- Has an electronic AML check been undertaken on either the client or the company if a commercial transaction?
- If the result of the electronic AML check was “fail” or “refer” what steps has the practice taken to address this?



Financial Profile of Client

- Does the stated source of wealth / source of funds and the amount of money involved reconcile with what you know of your client, for example given their age and occupation?
- Do you need further source of wealth information for the client?
- Is your client involved in / run a high risk or high cash turnover business?

Client Risk Assessment

Analysis



Transaction Type

- Does the transaction make sense or is it overly complex given the underlying nature of the business being conducted?
- Is the matter undertaken at short notice, within a short timescale or involving high volumes?
- Is there an unusual pattern of instructions or do the transaction/ transactions have no apparent economic or legal purpose?
- Is the matter routine for the practice, and if not does a lack of experience or expertise add to the risk?
- Does it make sense that your client has asked your firm to carry out this type of transaction? (e.g. is it within your area of expertise/local geographical area?)
- Does the matter involve trust or other legal entity company formation, management or service provision?
- Are there any other red flags identified?



Source of Funds

- Is the source of funds clear and identifiable?
- Are there any elements of the source of funds which are unexplained?
- Is any funding coming from overseas? Where from? Who from? Connection to client?
- Are any of the funds being paid by a third party otherwise unconnected to the transaction?
- Does your client seek to change the source of funds at the last minute?
- Has your client paid excess funds into your client account? Why/How?
- Does the value of the transaction appear to fall within the financial means of your client, given their income and savings?
- Does the funding derive from the sale of commodities or include new sources of finance which are unregulated such as crowd funding platforms or some bitcoins/cryptocurrencies? (Note that the FCA now maintains a temporary register of some cryptocurrency organisations and is regulating them).



Destination of Funds

- Has your client requested that fee proceeds be paid to someone other than a lender or themselves?
- If so what is the reason provided for this?
- Are fee proceeds to be paid to an overseas account?
- Has your client changed the destination of funds during the transaction?



Automatic High-Risk Triggers

- Are any automatic high-risk triggers for the Practice present? (such as the client being resident in a high-risk jurisdiction)
- Have any funds been deposited into your account without permission?
- Are there any factors present which would require an internal suspicion report to be submitted to the MLRO?

Money Laundering Risk Assessment – File Note

This should be completed at the beginning of the transaction, during the transaction if anything changes and just before the transaction is completed. Assessment of risk should take both client and transaction risk into consideration and will dictate whether Standard or Enhanced Client Due Diligence (EDD) is required. Please see page 49-50 of the LSAG guidance for a detailed guide to risk weightings.

Initial Assessment Of Risk:	<input type="checkbox"/> Low (Standard CDD)	<input type="checkbox"/> Medium (Standard CDD)	<input type="checkbox"/> High (Enhanced EDD)
Please state the reasons for your assessment:			
If HIGH Risk please explain the additional steps to be taken under EDD:			
Is an internal suspicion report justified?:			
Signed By:		Date:	

Interim Risk Assessment – Have any risk factors changed?	<input type="checkbox"/> Low (Standard CDD)	<input type="checkbox"/> Medium (Standard CDD)	<input type="checkbox"/> High (Enhanced EDD)
Please note below reasons for your assessment:			
<i>(If no, quick note stating as such, signed and dated – evidences that a review has been undertaken and consideration has been made)</i>			
Is an internal suspicion report justified?:			
Signed By:		Date:	

Final Risk Assessment – Have there been any last minute changes that give cause for concern?	<input type="checkbox"/> Low (Standard CDD)	<input type="checkbox"/> Medium (Standard CDD)	<input type="checkbox"/> High (Enhanced EDD)
Please note below reasons for your assessment:			
<i>(Should be undertaken before monies are transacted/enter the client A/C)</i>			
Is an internal suspicion report justified?:			
Signed By:		Date:	

If you have assessed the risk as high at any point during the transaction or have any reservations or concerns, please refer to the MLRO before continuing to act for the client.

If the nature of the transaction, the documentation or information you have been given would have aroused suspicions for a reasonable and honest Authorised Person, then you must immediately make an internal suspicion report in writing using our prescribed form to the MLRO.



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Contact us

For enquiries, please use the details below.

We are open Mon-Fri, 8am-5pm.

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