

# AML Compliance and COVID-19

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We are all facing challenging times with the coronavirus pandemic (COVID-19) and the Law Society of Northern Ireland (LSNI) appreciate that law firms are facing uncertainty and difficult business conditions as a consequence of the virus. However, the LSNI does expect solicitors to continue maintaining the high standards of service expected by members of the public. The LSNI has issued guidance by to help law firms navigate their way through this turbulent time<sup>1</sup>.

Businesses have been implementing their contingency plans to minimise the disruption caused by COVID-19 and to ensure provision of a proper standard of service to their clients. However, criminals will seek to take advantage of the pandemic and may try to exploit any vulnerabilities in anti-money laundering systems whilst businesses and individuals focus is elsewhere. The LSNI's guidance looks at some concerns that law firms may have about money laundering risks in the current climate.

## Long term absences of key officers

Queries have arisen regarding staff illnesses as a result of COVID-19, and in particular, in the event that a law firm's money laundering reporting officer (MLRO) and/or their money laundering compliance officer (MLCO) fall ill. Law firms should have measures in place to deal with the absence of such officers, and many will have appointed individuals to deputise in such circumstances. However, if your MLRO and/or MLCO is unable to fulfil their role as a result of being on long term sick leave then the LSNI needs to be notified within 14 days.

## Client Due Diligence

Despite the pandemic, law firms must still comply with their anti money laundering obligations and conduct client due diligence (CDD) as set out in the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017<sup>2</sup> and the Money Laundering and Terrorist Financing (Amendment) Regulations 2019<sup>3</sup> and their regulatory obligations.

1. Law Society of Northern Ireland. (2020). Frequently Asked Questions (FAQs). Retrieved from <https://www.lawsoc-ni.org/faqs-1>

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

3. <http://www.legislation.gov.uk/ukxi/2019/1511/made/data.pdf>



However, you can apply a risk based approach to satisfying your CDD measures by using other means for identifying and verifying clients such as via a telephone call, video conferencing and/or by email. However, whatever process you use it is recommended that the decisions made to satisfy CDD procedures are documented, signed and dated.

In the current climate it is appreciated that there may be a requirement to conduct enhanced due diligence (EDD) on a more frequent basis because remote working does not allow face to face client meetings.

Many law firms use electronic verification providers to assist them with EDD procedures, but the reports produced only confirm the existence of the individual. If during the due diligence process there is anything that makes you question whether the client is who they say they are then further EDD should be conducted. Remember, that in the event that you are not able to adequately establish and verify a client's identity, then you should not proceed with the transaction. Do not forget that section 4.9 of the Legal Sector Affinity Group (LSAG) Anti Money Laundering Guidance for the Legal Sector<sup>4</sup> helpfully sets out in detail the sources of identification verification to be considered when establishing a client's identity. The LSAG has also produced some guidance on how to prevent money laundering during the pandemic<sup>5</sup>. A copy of the guidance can be found [here](#).

The Financial Action Task Force (FATF) has recently published guidance concentrating on digital ID<sup>6</sup> and when it is appropriate to use such systems to conduct CDD. The key factors to consider are whether the electronic verification system is reliable and independent. By assessing the technology, architecture and governance of the system will help users to determine whether the electronic verification provider is suitable source for conducting CDD (FATF, p. 6-7).

## Reporting Suspicious

Do not forget that despite the pandemic you still have to comply with your reporting obligations and report any suspicious activity to the National Crime Agency/UK Financial Investigation Unit using the suspicious activity reporting regime. It is still very much business as usual for law enforcement.

The key to ensuring compliance during these unprecedented times is to ensure your policies and procedures have been updated to reflect the current working practices, including the firm wide risk assessment. Remain vigilant and be mindful of the red flag warning signs of money laundering and reporting any suspicions to your MLRO.

4. Legal Sector Affinity Group. (2018). Anti Money Laundering Guidance for the Legal Sector. Retrieved from <https://www.sra.org.uk/globalassets/documents/solicitors/code/lisag-anti-money-laundering-guidance.pdf>
5. Legal Sector Affinity Group. (2020). Legal Sector Affinity Group Advisory Note. Covid-19 – and Preventing Money Laundering/Terrorist Financing in Legal Practices. Retrieved from [https://www.lawsoc-ni.org/DatabaseDocs/nav\\_4906265\\_covid\\_19\\_lsag\\_advisory\\_note\\_-\\_final.pdf](https://www.lawsoc-ni.org/DatabaseDocs/nav_4906265_covid_19_lsag_advisory_note_-_final.pdf)
6. Financial Action Task Force. (2020). FATF Guidance on Digital Identity in Brief. Retrieved from <https://www.fatf-gafi.org/media/fatf/documents/reports/Digital-ID-in-brief.pdf>

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Each applicable policy of insurance must be reviewed to determine the extent, if any, of coverage for COVID-19. Coverage may vary depending on the jurisdiction and circumstances. For global client programs it is critical to consider all local operations and how policies may or may not include COVID-19 coverage.

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