Introduction
During 2020 the legal profession experienced a year of change and turbulence, largely as a result of Brexit and the coronavirus pandemic. However, one issue that has remained constant throughout this period is the threat of money laundering which remains a priority risk and challenge to law firms.

Money laundering is not a victimless crime. Criminals depend on money laundering to profit from drugs trafficking, human trafficking, prostitution rings, illegal arms trade and preying on the vulnerable.

No relaxation of the Regulations
As we enter 2021 that threat is still very much present and criminals will seek to exploit any vulnerabilities exposed as a result of the pandemic and therefore vigilance is key. Money laundering continues to feature as a priority risk because it is known that criminals rely on the services provided by solicitors as it adds the veneer of legitimacy to their transactions.

Let us be clear, there is no relaxation of the money laundering regulations because of the pandemic. The Law Society of Northern Ireland (LSNI) expects its members to comply with their anti money laundering obligations. If anything, law firms should be heightening their efforts to ensure that they are complying with their anti money laundering obligations.

2020 National Risk Assessment
Towards the end of 2020, the UK government published its third National Risk Assessment (2020 NRA), which comprehensively assesses the UK’s key money laundering and terrorist financing risks.

The legal profession continues to be at a high risk of being used in money laundering as criminals seek to abuse legal services provided. However, the 2020 NRA identified that legal services are not attractive to terrorist financing and therefore the profession still remains at a low risk in that respect.

The services considered to be most at risk of exploitation by criminals to money laundering are:-

Conveyancing

Residential conveyancing and commercial property transactions are highly vulnerable to the threat of money laundering, owing to the large volumes of transactions and high values involved. The latest assessment suggests that criminals are still favouring London to invest their money in property, but they are increasingly targeting university towns, due to the high demand for rental property from students which is resulting in high returns for buy to let investors.

Belfast is no exception. Over the last few years there has been an increase in major developments in areas in and around the City which has benefited from international investment, and there has been substantial growth in the buy-to-let sector. There is an increase in demand for quality student accommodation (especially from international students) attending Queen’s and Ulster University, university colleges and higher education colleges.

Solicitors conducting conveyancing work must be alive to the red flag indicators and the 2020 NRA highlights the following as some examples of red flags, indicating a higher risk of money laundering:

- clients seeking anonymity and purchasing property through complex corporate structures, such as companies based in secrecy jurisdictions concealing the true identity of the ultimate beneficial owner
- cash purchases with clients having no verifiable source of income justifying their wealth
- conveyancing transactions involving multiple legal service providers
- clients who are politically exposed persons from high corruption/high risk jurisdictions

Provision of trusts and company services

Creating and managing trusts and company structures continues to be a service where solicitors can find themselves negligently, unwittingly or complicitly facilitating money laundering. As we saw from the Panama and Paradise Papers data leaks and the Danske Bank scandal, complex corporate structures are used by criminals to move their illicit proceeds around the world, concealing both the true origins of those monies and the true ownership of the companies involved. It is estimated that millions of pounds are being laundered through legal entities in the UK. The risk score has increased in this work type from medium in the 2017 NRA to high in the 2020 NRA.

Furthermore, in January 2020 seven people were arrested in Northern Ireland as part of an investigation into international money laundering to the sum of approximately £215m.

There has been no more information published about the investigation and there is no suggestion that law firms in Northern Ireland were involved, but this investigation highlights the need to be vigilant if asked to act for clients in such transactions, especially new clients to your firm. The services delivered by trust and company services providers are attractive to criminals seeking to launder their proceeds of crime because they can:-

- conceal the details of the ultimate beneficial owners and control of assets and wealth
- create and control multiple legal entities relatively cheaply and quickly
- create complex and opaque structures
- operate across multiple jurisdictions
- avoid tax or duties

Red flag indicators that may arise in this type of work include:-

- Transactions where the client wants or appears to seek to use entities that involve multiple countries that are unconnected with the client or the transaction without any legitimate reason
- Creating or using an entity to provide greater opacity or secrecy with no legitimate reason, e.g. Scottish Limited Partnerships
- Taking any action that may disguise the actual controlling party, such as using family relationships to add a layer of separation between the actual controller of assets, and either the trustee(s) or beneficiaries of a trust

Misuse and exploitation of client accounts

The misuse and exploitation of law firms’ client accounts continues to be high risk to the threat from money laundering. The 2020 NRA has assessed that client accounts remain attractive to criminals to enable their proceeds of crime to be transferred to third parties. Criminals are increasingly becoming more sophisticated in their methodologies and there has been a rise in cases involving sham litigation and fraudulent investment schemes.

Whilst solicitors must safeguard any money or assets entrusted in them by clients and others, in accordance with the Solicitors Practice Regulations and Accounts Rules², law firms must not allow their client accounts to be used as banking facilities.

Permitting your client account to be misused and exploited can have serious consequences and you may be subject to disciplinary proceedings and in the worst case scenario struck off and/or imprisoned.


Not only can such actions damage the reputation of the law firm and the legal profession as a whole, but also the trust the public places in the provision of legal services.

Electronic Verification
In the current climate many law firms may find that they are still not meeting clients face to face and therefore they will need to verify their clients’ identity using enhanced due diligence procedures (EDD).

Many law firms use electronic verification providers to assist them with EDD procedures. Firms may need to consider whether the system is reliable and an independent source for conducting client due diligence by assessing the technology, architecture and governance of the system.

It is worth noting that the reports produced only confirm the existence of an individual. If during the due diligence process there is anything that makes you question whether the client is who they say they are, then you need to conduct further EDD. Furthermore, some reports can come back as a ‘refer’ or an ‘alert’ and this means further information is needed. It may simply be as a result of the clients recently getting married and a copy of the marriage certificate is needed, or if a client has recently been divorced then you may need a copy of the Decree Absolute to satisfy the client due diligence procedures. Such reports must not be overlooked and there must be an audit trail evidencing the steps you have taken to satisfy your legislative and regulatory obligations.

Remember, 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. Section 6 of the Legal Sector Affinity Group (LSAG) Anti Money Laundering Guidance helpsfully sets out in detail the sources of identification verification to be considered when establishing a client’s identity.

As a reminder, in the current climate law firms can use other means for identifying and verifying clients such as via a telephone call, video conferencing and/or by email. However, whatever process is used, you must record and evidence the process you follow to satisfy client due diligence procedures. These records should be ideally signed by the person conducting the client due diligence and dated, as well as documenting the method used, for example a video call, it is recommended that you include the time of the video call.

Brexit and anti money laundering compliance
The UK still has to comply with anti money laundering legislation now it has left the EU. The UK has transposed the EU money laundering directives into domestic law. The key change to be aware of is the definition of ‘third country’, which now extends to countries outside of the UK. EU clients and nationals now fall within the definition of a ‘third country’ and should be considered accordingly and EDD measures will apply.

The UK chose not to transpose the 6th Money Laundering Directive by 13 December 2020 as the majority of the requirements of that directive were covered under the existing anti money laundering regulations. Despite this, in order to strengthen the fight against economic crime, new corporate liability offences are currently being reviewed by the Law Commission to decide whether current laws are robust enough to crack down on corporate criminality.

Summary
• Money laundering is still a threat, despite the pandemic
• You must comply with your anti money laundering obligations
• Vigilance is key
• You must be alive to the red flag warning signs
• You must verify your client’s identity (including ultimate beneficial owner if a corporate client) and verify their source of funds
• It is essential that fee earners including partners receive the appropriate training regularly
• Supervision must not be overlooked, especially if working remotely
• You must know who to report any concerns to

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