

# Assessing the Risk of Money Laundering for Solicitors in Northern Ireland

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It is very much business as usual for criminals during the coronavirus pandemic (COVID-19) seeking to launder their illicit proceeds by exploiting potential weaknesses in law firms in Northern Ireland as they try to operate during these challenging times, with their focus primarily on operational resilience and financial hygiene.

Law firms that fall within the scope of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017)<sup>1</sup> must take appropriate steps to identify, assess, understand and mitigate any risks of money laundering or terrorist financing.

## What does this mean in practice?

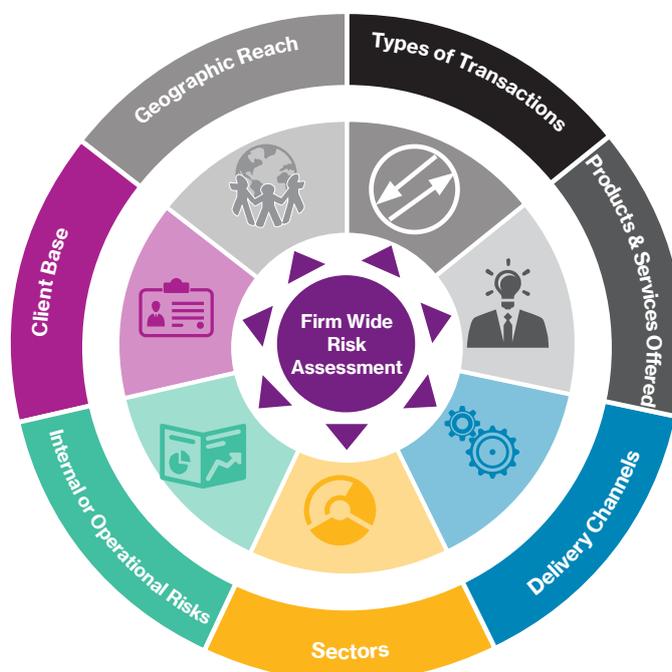
The requirement to have a written firm wide risk assessment is set out in Regulation 18 of the MLR 2017 and has been in force since 26 June 2017 and the Law Society of Northern Ireland (LSNI) will expect law firms to have implemented such assessments. By applying a risk based approach, law firms have the flexibility to decide how to assess the risks to their business from money laundering and how to deal the firm wide risk assessment. It can be as sophisticated or as simple as deemed appropriate.

The firm wide risk assessment can often be confused with a client or client matter risk assessment. A firm-wide risk assessment should evaluate how at risk your business is to money laundering. A matter or client risk assessment is linked to a specific client matter file, and should assess the money laundering risk of that particular client or client matter.

1. <http://www.legislation.gov.uk/uksi/2017/692/made>

In order to comply with their legislative and regulatory obligations, law firms should implement a written firm wide risk assessment which assesses the areas where they consider themselves to be most at risk of money laundering and/or terrorist financing by taking into consideration the following factors:

When dealing with the firm wide risk assessment you will need to consider the profile and demographic of your client base and the geographical areas in which you operate. You will need to take into account your practice areas and also the type of transactions you are involved in, including how you deliver services to your clients, as well as the services and products you offer to your clients. The LSNI regularly updates its guidance in respect of money laundering and terrorist financing risks and law firms are reminded to check the Members' section or the Frequently Asked Questions section of website for these updates<sup>2</sup>.



Next, taking each factor in turn:-



### Client Base

You need to consider the demographic of your client base and whether your clients pose a high, medium or low risk to the threat of money laundering or terrorist financing. It goes back to the basics of knowing your client, and why they instructed your firm.

- How do you deal with verifying your clients identification?
- Do you meet your clients face to face?
- Do you act for high cash turnover business clients?
- Do you act for politically exposed persons?

All of the above are considered to be deemed a higher risk to money laundering and you will need to implement the necessary systems and controls for mitigating the risks associated with acting for such higher risk clients. Furthermore, during the pandemic the usual methods of verifying your clients' identification may no longer be possible and alternative methods may need to be applied. You need to consider what risks this may create, and this should be reflected in the firm wide risk assessment, especially if changes are made to your client due diligence procedures.

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



## Geographic Reach

In assessing the geographic reach of your client base, you will need to factor in where your clients are located. Are they predominantly from the local vicinity or further afield? You will also need to take into consideration what jurisdictions your clients, or the beneficial owners of your clients, are based or operate from, especially if it is a high risk jurisdiction. Again, you will need to have the appropriate measures and controls in place to confirm that you have assessed the risks of acting for such clients. Do not forget to review the Financial Action Task Force List of High Risk Jurisdictions<sup>3</sup>, the HM Treasury's Guidance on Money laundering and Terrorist Financing Controls in Overseas Jurisdictions<sup>4</sup> and the Sanctions List<sup>5</sup> maintained by the Office of Financial Sanctions Implementation, when dealing with such clients.



## Services Offered

What services do you offer your clients? List them and consider whether they pose a low, medium or high risk for money laundering. The practice areas that are considered to be a greater risk to the legal profession are:-

- Conveyancing
- Creation and management of trusts, companies and charities
- Sham litigation
- Misuse/abuse of client accounts



## Delivery channels

You need to consider how you deliver your services to clients and identify channels that may be deemed to be high risk. For example, not meeting your clients can increase the risk of identity fraud and by making or accepting payments to and from third parties can assist money launderers to disguise their assets.



## Types of transactions

Do you deal with transactions that are complex, unusual or are large? Are your transactions regularly involving clients that are not met face to face or politically exposed persons? You will need to assess the risk of these transactions to money laundering, especially if there are monies coming from third parties and other jurisdictions.

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3. Financial Action Task Force. (2020). Topic: High-risk and other monitored jurisdictions. Retrieved from [http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/?hf=10&b=0&s=desc\(fatf\\_releasedate\)/](http://www.fatf-gafi.org/publications/high-risk-and-other-monitored-jurisdictions/?hf=10&b=0&s=desc(fatf_releasedate))

4. Gov.UK. (2020). Money laundering and terrorist financing controls in overseas jurisdictions – advisory notice. Retrieved from <https://www.gov.uk/government/publications/money-laundering-and-terrorist-financing-controls-in-overseas-jurisdictions-advisory-notice>.

5. HM Treasury and Office of Financial Sanctions Implementation HM Treasury. (2020). Guidance Financial sanctions targets: list of all asset freeze targets. Retrieved from <https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets>



## Internal and operational risks

You will need to think about the nature of your firm, your staff including the number of relevant employees and consultants.

Do you have branch offices? If you do, how many and where are they located? Are they located within the jurisdiction or outside the jurisdiction? It is important to understand what is going on within your branch offices.

It is recommended that you include information about the training you provide in the firm wide risk assessment. Who receives the training and how often it is provided, especially in the new working environment as a result of Covid-19, with more reliance on remote and/or on-line training (e.g via webinars) rather than face to face/in person training. Remember documentary evidence of training undertaken must be maintained.

Education and awareness are key measures to counter the growing threat of money laundering and it is a mandatory requirement (Regulation 24). All relevant staff should receive training about the threat of money laundering and terrorist financing to law firms, guidance on how to detect it and training on the firm's policies and procedures as an when appropriate but it ideally all relevant staff should receive training every two years at the very least.

## Conclusion

The written firm wide risk assessment should be a living document and regularly reviewed in order to identify any patterns or trends and emerging risks, such as now during the Covid-19 crisis. It is advised that the assessment is fully reviewed at least once a year or if there has been any significant change to the business or a change in regulations and/or legislation. It should be signed and dated by the Money Laundering Reporting Officer/the Money Laundering Compliance Officer. Do not forget that the document should be made available to the LSNI upon any request for delivery up.

Failure to implement a firm wide risk assessment will not be taken lightly by the LSNI, and as previously mentioned it is a legislative and regulatory obligation. Any failures to do so may result in sanctions against either the individual involved, the firm or both. In addition, there is the threat of reputational damage which may result in the loss of business as well as jeopardising the trust the public places in the legal profession and legal services.

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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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