

## Topic guide

Updated 11 June 2024

# Anti-money laundering

## Background

Keeping the profession free of money laundering is in everyone's interest. It is a key method of disrupting serious crime which funds everything from terrorists to people traffickers. Money laundering is a priority risk for us. The credibility of law firms makes them an obvious target for criminals. The overwhelming majority of solicitors want to do the right thing. That alone, however, is not enough. Weak processes or undertrained staff can leave the door open for criminals.

As an AML supervisor we conduct proactive inspections of firms within scope of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ('the Regulations'). This includes issuing guidance, sending letters of engagement, implementing a compliance plan, or referring for investigation at the conclusion of an inspection.

We may also commence an investigation on the basis of intelligence received from a third party (eg law enforcement or a client) or from a self-report.

This Topic Guide relates to our approach to investigating individuals and firms when we discover non-compliance with anti-money laundering (AML) legislation, in particular the Regulations. It should be read in conjunction with our [Enforcement Strategy](https://referral.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/1) [<https://referral.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/1>].

## Our approach to enforcement

We have a responsibility as an AML supervisor to make sure those we supervise meet the requirements in the Regulations and have appropriate policies, controls, and procedures in place to prevent money laundering.

Firms must comply with the Regulations and any future legislation that comes into force.

We take involvement in money-laundering very seriously and work with law enforcement to ensure that robust action is taken. Our [Enforcement Strategy](https://referral.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/1) [<https://referral.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/1>] is clear that convictions for money laundering offences will be treated most seriously. This reflects the important role of solicitors in preventing



organised crime, and the protection they can provide by fulfilling their obligations and being vigilant.

We assess each case on its own merits and may take into account factors like the impact of any breaches or the size and nature of the firm involved.

## Application of the Standards and Regulations

Compliance with the Regulations is a legal requirement and therefore is required by paragraph 3.1 of the Code of Conduct for Firms and paragraph 7.1 of the Code of Conduct for Solicitors, RELs and RFLs.

Certain role holders within firms have specific compliance responsibilities which are outlined below.

Role	Responsibility
Compliance officer for legal practice (COLP)	<a href="https://referral.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/#rule-9">Responsible for overall compliance at the firm</a> <a href="https://referral.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/#rule-9">[https://referral.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/#rule-9]</a> .
Compliance officer for finance and administration (COFA)	<a href="https://referral.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/">Responsible for compliance with the SRA Accounts Rules</a> <a href="https://referral.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/">[https://referral.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/]</a> .
Money laundering compliance officer (MLCO)	A member of the firm's managing body <a href="https://www.legislation.gov.uk/uksi/2017/692/regulation/21">responsible for the firm's overall compliance with the Regulations.</a> <a href="https://www.legislation.gov.uk/uksi/2017/692/regulation/21">[https://www.legislation.gov.uk/uksi/2017/692/regulation/21]</a>
Money laundering reporting officer (MLRO)	Also known as a nominated officer, <a href="https://www.legislation.gov.uk/uksi/2017/692/regulation/21">responsible for making and managing suspicious activity reports.</a> <a href="https://www.legislation.gov.uk/uksi/2017/692/regulation/21">[https://www.legislation.gov.uk/uksi/2017/692/regulation/21]</a>

Managers of a firm may also be held responsible for failings by the firm where they had a responsibility for the relevant breaches or should have known about them and intervened.

The following warning notices set out further information on your regulatory obligations with a specific focus on AML matters. Compliance with these notices will be considered when exercising our regulatory functions.

- [money laundering and terrorist financing](https://referral.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing/)  
[\[https://referral.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing/\]](https://referral.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing/)
- [suspicious activity reports](https://referral.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-suspicious-activity-reports/)  
[\[https://referral.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-suspicious-activity-reports/\]](https://referral.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-suspicious-activity-reports/)



- [firm-wide risk assessments](https://referral.sra.org.uk/solicitors/guidance/compliance-money-laundering-regulations-firm-risk-assessment/)  
[<https://referral.sra.org.uk/solicitors/guidance/compliance-money-laundering-regulations-firm-risk-assessment/>]
- [client and matter risk assessments](https://referral.sra.org.uk/solicitors/guidance/client-and-matter-risk-assessments/)  
[<https://referral.sra.org.uk/solicitors/guidance/client-and-matter-risk-assessments/>].

## **Anti- Money Laundering Requirements**

The Regulations and accompanying legal sector guidance set out clear ways to meet the requirements. These should not be treated as a tick-box exercise. You need to assess and address the risks your firm faces, putting in place policies, controls, and procedures to mitigate those risks.

AML requirements are highlighted in [the Regulations](http://www.legislation.gov.uk/ukxi/2017/692/made) [<http://www.legislation.gov.uk/ukxi/2017/692/made>], and [the legal sector guidance](https://referral.sra.org.uk/globalassets/documents/solicitors/code/lisag-anti-money-laundering-guidance.pdf?version=490290) [<https://referral.sra.org.uk/globalassets/documents/solicitors/code/lisag-anti-money-laundering-guidance.pdf?version=490290>], which include the examples provided below. However, this list is not exhaustive, and firms are expected to stay current with relevant guidance and regulations.

- Demonstrating that they have in place an up-to-date firm-wide risk assessment that is unique to the firm, is in writing and can be provided on request. This must address the areas set out in Regulation 18, identifying the risks of money laundering and terrorist financing that are relevant to it.
- Having in place AML policies, controls and procedures which are appropriate to their size and nature. These must cover all of the areas specified in Regulation 19.
- Providing and recording suitable training for all relevant staff within the organisation and keeping records of that training.
- Appointing a money laundering reporting officer (MLRO) and where relevant a money laundering compliance officer (MLCO).
- Conducting appropriate customer due diligence (CDD) and enhanced customer due diligence (EDD), and ongoing monitoring. Where necessary, this includes source of funds and source of wealth checks.
- Keeping records about CDD and EDD.
- Making disclosures of suspicious activity to the NCA, under the Proceeds of Crime Act 2002.

An investigation can be triggered for non-compliant firms. Examples of the types of investigations we undertake are those involving:

- evidence of money laundering
- failure to carry out customer due diligence (CDD)
- failure to have a firm-wide risk assessment in place
- out of date policies
- significant transaction specific due diligence failings
- failure to train staff on the Regulations
- weak controls or a lack of controls.



Further guidance on our firm inspections can be found here: go to our [firm inspections page](https://referral.sra.org.uk/solicitors/resources-archived/money-laundering/guidance-support/firm-inspections/) [https://referral.sra.org.uk/solicitors/resources-archived/money-laundering/guidance-support/firm-inspections/].

## Factors we consider

As part of our assessment of the case at the investigation stage we will consider any mitigating and aggravating factors in accordance with our [Enforcement Strategy](https://referral.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/) [https://referral.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/]. In AML matters, these may include those set out below.

For the avoidance of doubt, the factors surrounding a single breach or failure may be sufficiently serious to lead to an investigation and attract a higher sanction in line with our [Enforcement Strategy](https://referral.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/) [https://referral.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/].

### Mitigating features

A genuine but flawed attempt to comply, typically due to a superficial or incorrect understanding of the Regulations.

A clear plan to achieve compliance and to ensure likelihood of repetition is low, with a prompt timeframe for completion, or already completed. What is a prompt timeframe will vary from case to case, but we expect matters to be rectified as soon as practicable.

There has been minimal risk the firm may have been used for money laundering and/or terrorist financing.

An isolated minor incident.

### Aggravating features

No attempt made to comply, whether due to:

- ignorance of the Regulations and our warning notices
- failure to consider the Regulations and our warning notices
- deliberate avoidance

Failure or refusal to comply, act on our advice or to take appropriate steps to reduce likelihood of repetition.

There has been a significant risk that the firm may have been used for money laundering or resulted in money laundering, terrorist financing or harm to the public. This may include (but is not limited to) where there is evidence of actual money laundering. The scope and size of the money laundering risk may further aggravate the conduct.

A repeated failure demonstrating a pattern of behaviour or culture.



Breaches which are due to one employee, are minor in nature, and could be remedied by training.

Systemic failures across several fee earners and work types.

Failure by senior staff, especially those holding AML roles such as MLCO or MLRO.

What is minor for these purposes will vary from case to case.

Breaches which occurred within scope of the Regulations, but in circumstances or an area of work which are lower risk.

Failures in an area of work which our [AML Sectoral Risk Assessment](https://referral.sra.org.uk/sra/research-publications/aml-risk-assessment/) [https://referral.sra.org.uk/sra/research-publications/aml-risk-assessment/] has identified as high-risk.

The non-compliance of the firm was primarily due to circumstances outside of their control.

There is evidence the non-compliance of the firm was intentional or was despite full knowledge of the requirements.

## **Indicative guidelines on disciplinary sanctions**

We are likely to impose a sanction where:

- there are substantial breaches of the Regulations which put the firm at a high risk of money laundering
- breaches of the Regulations indicate systemic failings, for example if numerous, repeated, or persistent.

We will assess the appropriate sanction in accordance with our [Enforcement Strategy](https://referral.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/) [https://referral.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/]. Where we propose to impose a [fine](https://referral.sra.org.uk/solicitors/guidance/financial-penalties/) [https://referral.sra.org.uk/solicitors/guidance/financial-penalties/], we calculate this in accordance with our [Guidance on Financial Penalties](https://referral.sra.org.uk/solicitors/guidance/financial-penalties/) [https://referral.sra.org.uk/solicitors/guidance/financial-penalties/].

Where matters are particularly serious, such as those indicating complicity in money laundering, wilful non-compliance, dishonest cover up, significant risk to the public, or otherwise outside our powers to deal with, we may prosecute the matter before the Solicitors Disciplinary Tribunal (SDT). The SDT has additional sanctions available to it for most of the firms we regulate such as a larger fine (in the case of recognised bodies and sole practitioners), or suspension or strike off of any solicitors involved.

Aside from disciplinary sanctions, we may also impose controls to protect the public. These include:



- conditions or controls to prevent an individual from holding certain roles, if we do not consider they can do so safely and effectively
- [conditions or controls on firms](https://referral.sra.org.uk/consumers/solicitor-check/controls/) [https://referral.sra.org.uk/consumers/solicitor-check/controls/], to prevent the firm carrying out work in scope of the MLRs 2017 until the firm has put in place adequate AML policies, procedures and controls, and provided evidence to us
- making an order [under s.43 of the Solicitors Act 1974 or s.99 of the Legal Services Act 2007](https://referral.sra.org.uk/consumers/solicitor-check/employee-decision/#:~:text=If%20a%20non-solicitor%20is,regulatory%20decision%20on%20their%20record.) [https://referral.sra.org.uk/consumers/solicitor-check/employee-decision/#:~:text=If%20a%20non-solicitor%20is,regulatory%20decision%20on%20their%20record.] against a non-solicitor, barring them from working for a firm without our permission
- [intervention](https://referral.sra.org.uk/solicitors/guidance/consumer-intervening-protect-clients/) [https://referral.sra.org.uk/solicitors/guidance/consumer-intervening-protect-clients/] into a firm, to close it down and take possession of monies and documents. We will make arrangements for ongoing work to continue with an alternative firm.