



Law Society  
of Scotland

# Anti-Money Laundering Supervisory Report 2022

December 2022



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## Foreword from Law Society of Scotland CEO, Diane McGiffen

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Money laundering harms individuals, communities and society. It is central to much criminal activity. It is linked to crimes that cause human misery and suffering – from people smuggling and child sexual exploitation, to illegal drugs and gun smuggling.

The Law Society of Scotland is a Professional Body AML Supervisor and we continue to invest in this work to protect the public, and ensure our members meet the highest legal and ethical standards in this area.

This year, we have strengthened our team by recruiting two additional full-time AML specialists, allowing us to intensify the range and scope of our supervisory assurance work, including in-depth assessment of the overarching AML culture and awareness at the legal firms we supervise.

Our strategic goals include modern and effective regulation which acts in the public interest and leading the profession – as evidenced in our anti money laundering supervision. Taking a robust, risk-based approach is central to this and allows us to focus on areas of the highest money laundering risk or concern - ensuring we are fair, effective and proportionate in our supervision which, in turn, promotes and protects the public interest and trust in the sector.

We seek to balance the provision of legal services, and the fundamental right of access to such services, with our responsibility to support and uphold high standards of AML compliance, taking appropriate action against those that fall short of these standards.

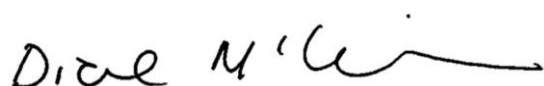
Over and above our ongoing risk-based supervisory assurance regime, work undertaken since our last report includes the publication of a new, fully refreshed sectoral risk assessment, significant work in response to the illegal invasion of Ukraine by Russia, and strengthened collaboration with stakeholders such as HMRC, the NCA, OPBAS and Police Scotland to share relevant insight, information and intelligence.

This report allows us to highlight such achievements, along with other progress and the positive supervisory outcomes we continue to work hard to accomplish.

I am extremely proud that we continue to lead the profession on anti-money laundering through the work of the committed and dedicated AML team at the Law Society. I welcome the opportunity to introduce the report below, and hope it serves as a transparent, useful and informative reference for all with an interest in our work in this area.

Please let us know what you think and how we can help.

Yours sincerely,



**Diane McGiffen (CEO)**

## 1. Context to this Report

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The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs or “The Regulations”) set administrative requirements for the anti-money laundering regime within the regulated sector.

Regulation 12 states that the regulations apply to 'independent legal professionals', that is:

*“a firm or sole practitioner who by way of business provides legal or notarial services to other persons, when participating in financial or real property transactions concerning—*

*(a) the buying and selling of real property or business entities;*

*(b) the managing of client money, securities or other assets;*

*(c) the opening or management of bank, savings or securities accounts;*

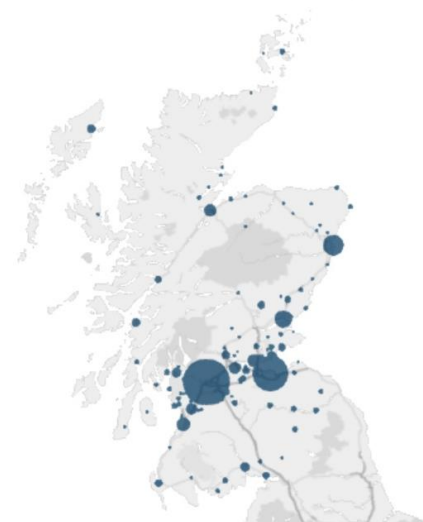
*(d) the organisation of contributions necessary for the creation, operation or management of companies; or*

*(e) the creation, operation or management of trusts, companies, foundations or similar structures”*

The Law Society of Scotland is the Professional Body AML Supervisor for Scottish solicitors, with a remit across c.720 practices throughout Scotland, including c.400 Practices and c.300 Sole Practitioners with c.2,600 registered beneficial owner, officer or managers (BOOMS).<sup>1</sup>

The practices have a wide geographical spread throughout Scotland with concentrated numbers in large cities such as Edinburgh, Glasgow, and Aberdeen.

AML supervisory authority status has been ratified by His Majesty's Treasury through Schedule 1 of the MLRs and is discharged through the use of the Solicitors (Scotland) Act 1980.



<sup>1</sup> Within our 2021 Annual Report, we reported that c.750 practices were supervised by the Society and note the decrease in number in comparison to 2022. We have assessed this change and conclude that this is owing to a change in the nature of practices which allows them to complete exemption forms for AML supervision alongside various mergers/acquisitions over the relevant period and various practice closures.

## Our Regulatory Requirements

MLR r.46 sets out the Society's primary duties and responsibilities in respect of AML supervision, including:

- *adopting a risk-based approach to the exercise of its supervisory functions;*
- *basing the frequency and intensity of its on-site and off-site supervision on the risk profile of our supervised population;*
- *keeping a record in writing of the actions it has taken in the course of its supervision, and of its reasons for deciding not to act in a particular case;*
- *taking effective measures to encourage its own sector to report breaches of the provisions of these Regulations to it.*

MLR r.49 sets out further duties upon the Society:

*“Self-regulatory organisations must make arrangements to ensure that:*

- *their supervisory functions are exercised independently of any of their other functions which do not relate to disciplinary matters;*
- *sensitive information relating to the supervisory functions is appropriately handled within the organisation;*
- *they employ only persons with appropriate qualifications, integrity, and professional skills to carry out the supervisory functions;*
- *contravention of a relevant requirement by a relevant person they are responsible for supervising renders that person liable to effective, proportionate, and dissuasive disciplinary measures under their rules.”*

*“Self-regulatory organisations must:*

- *provide adequate resources to carry out the supervisory functions;*
- *appoint a person to monitor and manage the organisation's compliance with its duties under these Regulations.”*

The Money Laundering and Terrorist Financing (Amendment) Regulations 2019 further prescribe that self-regulatory organisations such as the Society must also publish an annual report containing information regarding:

- *measures taken by the self-regulatory organisation to encourage the reporting of actual or potential AML breaches;*
- *the number of reports of actual or potential breaches received by that self-regulatory organisation;*
- *the number and description of measures carried out by the self-regulatory organisation to monitor, and enforce, compliance by relevant persons with their obligations the MLRs, the Terrorism Act 2000 (TA) and the Proceeds of Crime Act 2002 (POCA).*

This report follows our first full report published in October 2021. It highlights key changes and enhancements we have made to our supervisory approach, along with the work we have undertaken to fulfil our obligations under the regulations during the reporting period.

## **The Office for Professional Body Supervisors (OPBAS)**

In January 2018, new regulations gave rise to the set-up of OPBAS, with the aim of improving the consistency of AML supervision across the 22 Professional Body Supervisors (PBS). OPBAS sets out guidance and its expectations of PBSs in performance of their duties under the MLRs, in the form of the 'OPBAS Sourcebook' – which the Society must also adhere to. We are also subject to ongoing review by OPBAS regarding our own AML supervisory work – we support and welcome this oversight and have developed a professional, positive and constructive working relationship with them.

## **2. Our AML Supervisory Work**

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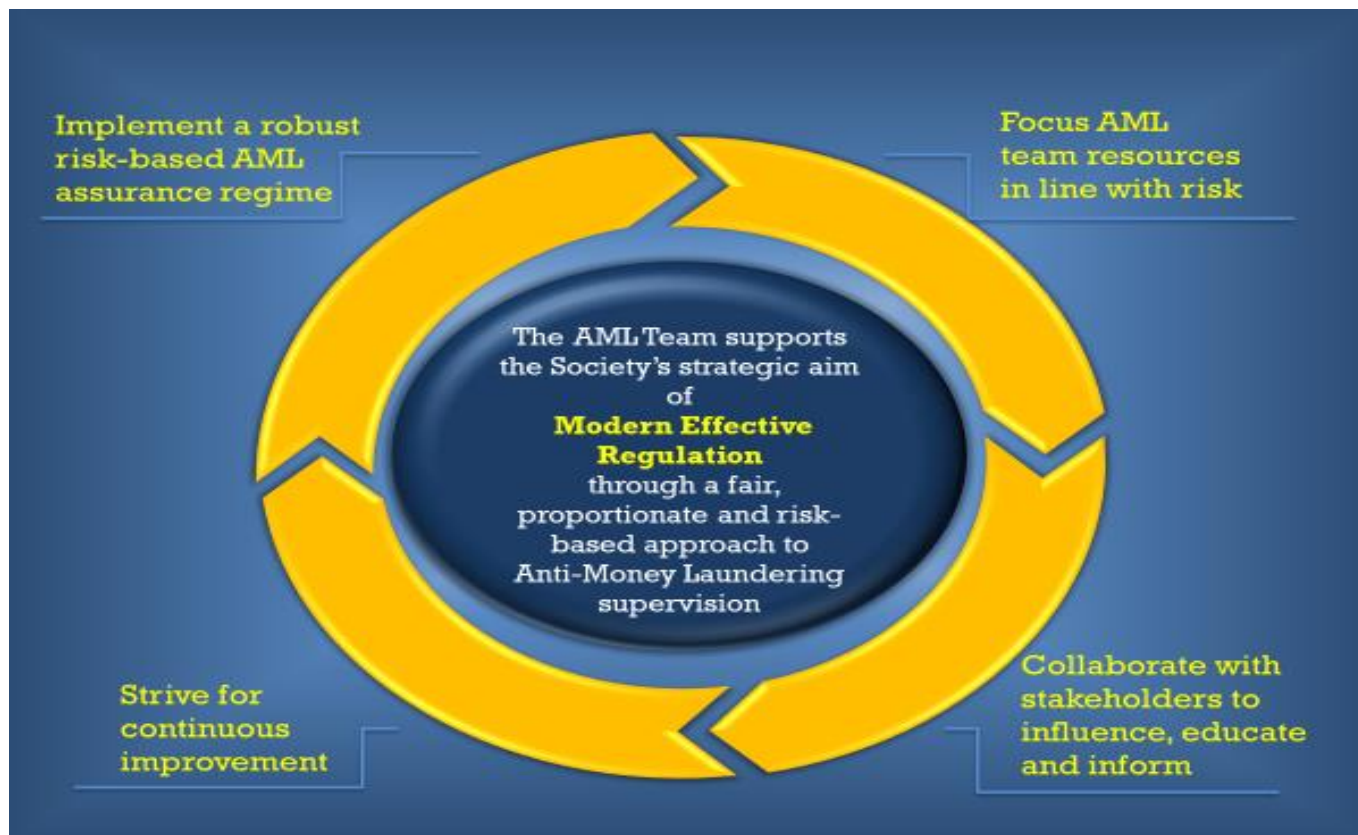
### **AML Team – Resourcing Changes & Structure**

We were able to recruit two additional experienced AML managers at the start of 2022, bringing our dedicated AML team up to a headcount of five - consisting of the Head of AML and four managers, responsible for AML supervisory and assurance work across the profession.

The AML team is embedded within (and supported by) the Society's wider Financial Compliance and Regulatory functions and prioritises assurance and other supervisory activity on a risk-based approach – in line with responsibilities under r.46.



## AML Team Mission Statement & Objectives



### The AML Certificate and our Risk-Based Approach to Supervisory Assurance

The Society's AML Certificate is a compulsory annual questionnaire issued to practices which conduct work in-scope of r.12 of the Money Laundering Regulations (MLRs).

It consists of c.70 questions relating to inherent AML risk factors in line with the MLRs, the UK National Risk Assessment and our refreshed Sectoral AML Risk Assessment.

The certificate focuses on a practice's exposure to inherently higher risk clients and higher-risk areas of practice such as Conveyancing and Trust and Company Service Provision - along with geographic and delivery channel risks.

Once analysed, the data collected is used to build a risk profile of our supervised population and can also allow us to understand specific AML risks, trends, or issues across the supervised population.

This profiling mechanism supports the Society in satisfying requirements of r.46 – i.e., to adopt a risk-based approach by basing the frequency and intensity of our supervision according to the risk profile of our supervised population.

The analysis of AML certificate information gives us the ability to identify overall trends within our supervised population - for example conveyancing transactions (residential and commercial) accounted for 93% of all AML regulated matters reported.

The latest AML Certificate profiling process was further improved with the inclusion of new and additional risks contained in our refreshed Sectoral Risk Assessment, along with the consideration of higher risk work types coupled with other risk factors/red flags, to ensure a greater focus on those types of clients/areas of work which are of the greatest inherent AML risk. Examples include:

- Identification of practices who have engaged with higher risk jurisdictions on any matter type. Using information from The UK HM Treasury High Risk Third Countries List, The Basel Index and The EU AML High Risk Jurisdictions list;
- Identification of practices who have provided high risk services such as conveyancing to higher risk jurisdictions;
- Identification of practices who have engaged with Politically Exposed Persons (PEPs) where there is also a link to a higher risk jurisdictions;
- Identification of practices who have provided Trust and Company Service Provisions to privacy jurisdictions.

**33**

*Practices reported undertaking Conveyancing or TCSP services with clients located in higher risk jurisdictions including: UAE, Venezuela and, Cayman Islands*

**19**

*Practices reported having conducted TCSP services with a nexus to "Secrecy" Jurisdictions.*

**901**

*Conveyancing matters (Residential and Commercial) reported, involved clients whose business interests were known to be in a higher risk industry.*

**2**

*Practices reported having undertaken matters which involved clients known to be PEPs with nexus to higher risk jurisdictions: Turkey and Uganda*

**25**

*Practices reported they had engaged on conveyancing matters with a higher risk jurisdiction*

**206**

*Conveyances were reported where the client or underlying beneficial owner was known to be a PEP*



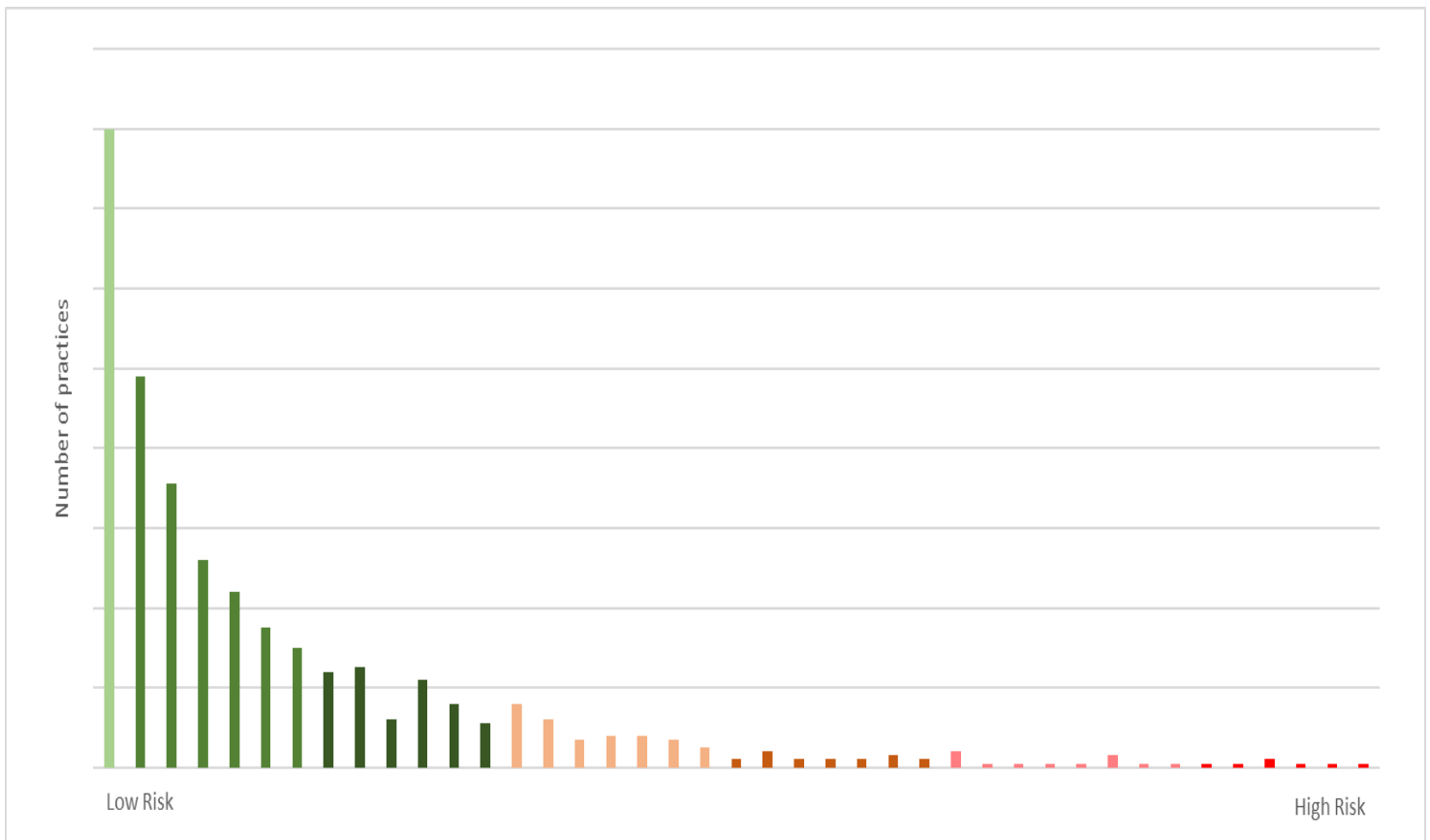
These additional risk flags allow for the identification of more sophisticated and granular risk ratings across the population and has allowed the Society to apply a more targeted risk-based approach by deploying different assurance methods such as attestations, thematics and desk-based engagements across the population.

The Society sets out our overarching approach to risk-based supervision and associated outcomes in a [Risk Appetite Statement](#).<sup>2</sup>

**The Scottish Legal Profession – Inherent Risks and Risk Profile**

700 AML Certificate returns were received for the 2021 relevant period. C. 20 non-submitters/responders were reported to the AML Sub-Committee and were subsequently referred for complaint under the Society’s Practice Rule B9.<sup>3</sup> Non-responses will also be factored into future risk profiling exercises.

Through analysis of the returns, we have built a risk profile of the supervised population as per the below graph:



<sup>2</sup> <https://www.lawscot.org.uk/media/370492/law-Society-of-scotland-aml-risk-appetite-statement-february-2021.pdf>

<sup>3</sup> [https://www.lawscot.org.uk/members/rules-and-guidance/rules-and-guidance/section-b/rule-b9/rules/rule-b9-money-laundering-terrorist-financing/#:~:text=\(b\)%20no%20regulated%20person%20within,comply%20with%20any%20such%20provision.](https://www.lawscot.org.uk/members/rules-and-guidance/rules-and-guidance/section-b/rule-b9/rules/rule-b9-money-laundering-terrorist-financing/#:~:text=(b)%20no%20regulated%20person%20within,comply%20with%20any%20such%20provision.)

## **AML Assurance**

### **High Risk Reviews - Process**

In accordance with the provisions of r.46, the AML team base the frequency and intensity of assurance work according to the risk profiles developed in the AML Certificate process – as detailed in this report.

Depending upon the circumstance and specific risks highlighted via the certificate, reviews can encompass full- firm inspections or reviews focused on specific clients, matters or areas of a firm's business. We also perform ad-hoc reviews based on intelligence gathered from sources such as law enforcement and our reporting concerns helpline.

Full firm inspections test the adequacy of a firm's Practice Wide Risk Assessment, Governance and Policies, Controls and Procedures (PCPs) set against fundamental regulatory requirements and as set against the HM Treasury-approved Legal Sector Affinity Group AML Guidance (including its 36 'High Level AML Compliance Principles.').

The full inspection process goes on to review the effectiveness of AML controls 'on the ground', by testing adherence to these requirements through review of higher risk clients and matters, along with review of the AML culture and awareness at the Practice (this includes supervisory interview of key partners and members of staff).

The AML Certificate data forms the basis of file selection and allows us to sample according to our risk-based approach - effectively and efficiently, focusing on higher-risk or other matters of interest from an AML perspective.

We will also target other areas of concern as highlighted through intelligence sharing, for example. We have also started reviewing the quality of Suspicious Activity Reports (SARs) submitted by practices under inspection, subsequent to the passing of legislation in September 2022 strengthening our powers in this area.

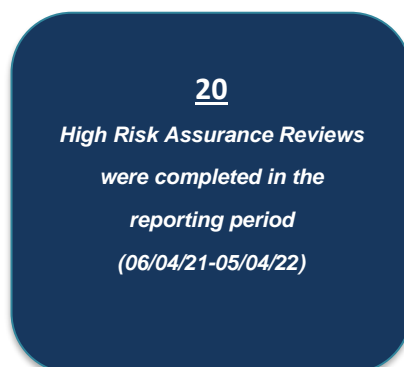
These ways of working supports our effectiveness, and also ensures our impact on practices we inspect is minimised, and as efficient as possible.

### **Medium Risk Reviews - Process**

Practices deemed of medium inherent AML risk are also subject to inspections which are undertaken by members of the wider financial compliance team. These inspections are a very important element of our overall regime. They focus predominately on file-level AML compliance in the context of wider client accounting matters. The AML team works with the Financial Compliance team where issues are identified which may indicate higher AML risk.

## Assurance Outcomes

### High Risk



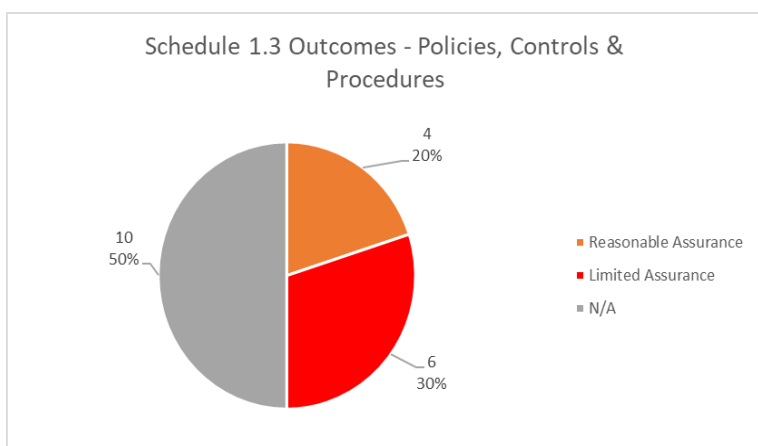
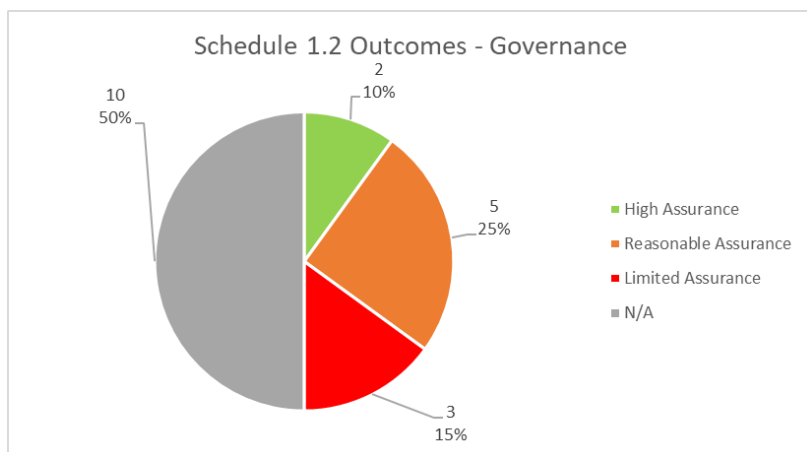
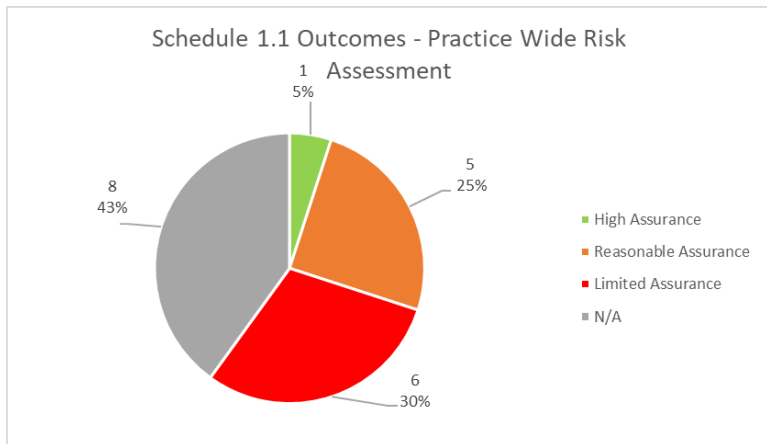
From April 2021 to April 2022 the AML Team conducted **20** High-Risk Assurance reviews. This included **6** full inspections, **7** reinspections and **7** single file reviews.

These inspections were driven by either risk profiling or intelligence received.

In addition to the *20 completed* assurance reviews, the AML Team also initiated an additional **11** assurance reviews within this relevant period which have subsequently completed subsequent to April 2022. These will be reported on in next year's annual report.

Part 1 - PWRA, Governance & PCP Assurance Statistics

Across all 20 inspections, the below graphs demonstrate the spread of assurance gradings in relation to practices Practice Wide Risk Assessment, Governance and Policies, Controls & Procedures.<sup>4</sup>

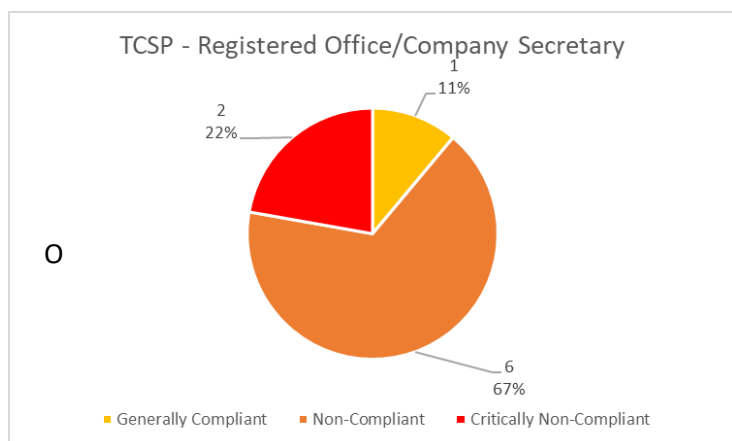
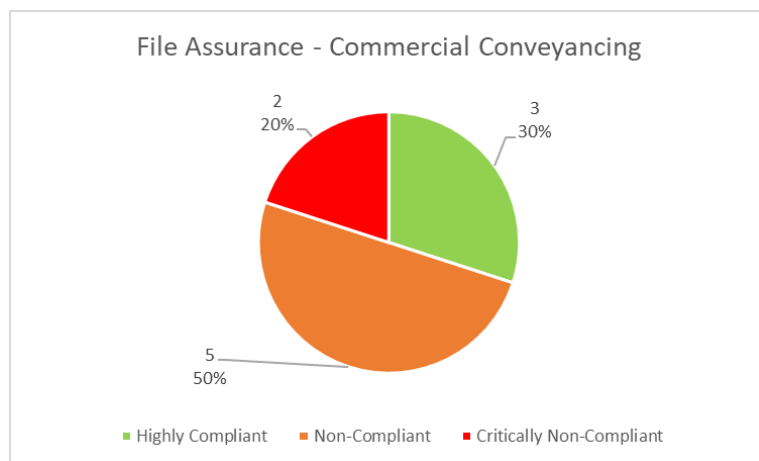
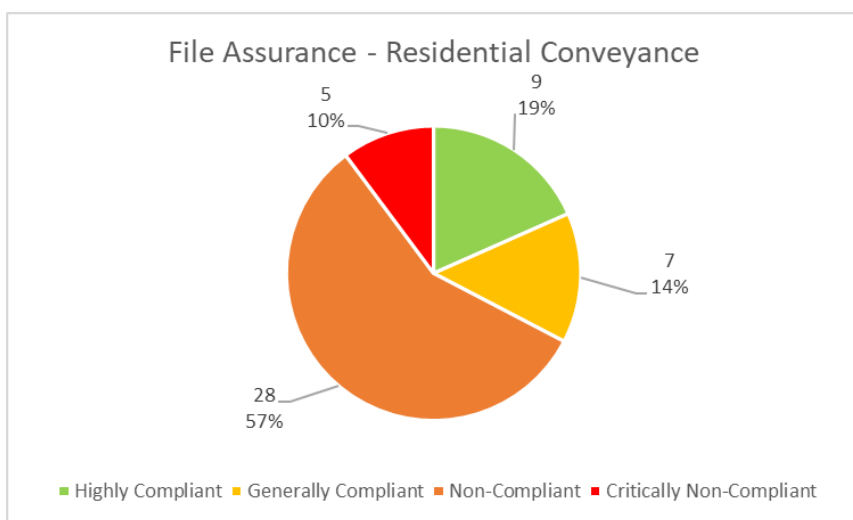


<sup>4</sup> Please note, not all inspections were subject to assurance in accordance with all schedules hence, the requirement for a N/A to be applied to some reinspection's and to all single file reviews as they are not assured in accordance with these schedules. These schedules constitute and make up Part 1 of full assurance reviews.

Part 2 - File Review Assurance Statistics

As part of high-risk assurance reviews, the AML Team reviews client files and matters which are of higher inherent risk. For example, we reviewed 68 files across higher risk areas of residential & commercial conveyancing and Provision of Registered Office/Company Secretary in the reporting period - either as part of full inspections, reinspection's, or single file reviews.

The below graphs demonstrate the gradings for each file's assurance rating split by file type:<sup>5</sup>



<sup>5</sup> Highly compliant - Gaps in compliance found on file reviewed were considered to have no material impact and/or do not represent a regulatory concern. Generally Compliant - Gaps in compliance found on file reviewed may have a material impact. Volume and/or nature of observation(s) mean the "Highly Compliant" grading could not be given. Non-Compliant - Gaps in compliance found on file reviewed were considered to be significant, have a material impact and are a regulatory concern. Volume and/or nature of observation(s) mean that "Generally Compliant" grading could not be given. Critically Non-Compliant - Gaps in compliance found on file reviewed were considered to be critical, have a material adverse impact and are of serious regulatory concern.

### Spotlight on Full Inspections

As part of the inspection process, the Society assesses compliance with requirements and relevant guidance in three key AML control areas: Practice Wide Risk Assessment (PWRA), Governance and Policies, Controls and Procedures (PCPs).

Across the 6 full firm inspections undertaken in the reporting period, the team graded varying levels of assurance relating to these areas of the practices AML controls:

	PWRA	Governance	PCPs
<b>High assurance</b> - There is a high level of assurance that the documentation reviewed is delivering compliance against the AML requirements, duties or responsibilities of the Practice Unit. The review has identified only limited scope for improvement in existing arrangements and as such it is not anticipated that significant further action is required to reduce the risk of non-compliance.	1 Practice	2 Practices	
<b>Reasonable assurance</b> - There is a reasonable level of assurance the policy, control or procedure reviewed is delivering compliance against the AML requirements, duties or responsibilities of the Practice Unit. The review has identified some scope for improvement in existing arrangements to reduce the risk of non-compliance with these requirements	5 Practices	4 Practices	4 Practices
<b>Limited assurance</b> - There is a limited level of assurance that the policy, control, or procedure reviewed is delivering compliance against the AML requirements, duties or responsibilities of the Practice Unit. The review has identified considerable scope for improvement in existing arrangements to reduce the risk of non-compliance with these requirements.			2 Practices

2 practices subject to a full high-risk inspection process were referred to the Society's AML sub-committee (AMLSC), one of which resulted in a reinspection and the other, no further action was taken by the AMLSC.

4 of these inspections were subject to a programme of timed remediation overseen by the AML Team.

When deciding whether to refer to AMLSC, the AML will consider relevant factors such as the practices size, nature and risk profile, the duration of non-compliance, the attitude/conduct of the practice, any previous findings, amongst other factors.

These factors are also used by AMLSC in determining outcomes of their deliberation, including any disciplinary sanction.

### Spotlight on Re-inspections

Across the **7** re-inspections undertaken, the team have graded varying levels of assurance relating to these areas of the practices AML controls. Please note re-inspections may be limited in scope and therefore may not incorporate assurance review across all three schedules as below.

	PWRA	Governance	PCPs
<b>High assurance</b> - There is a high level of assurance that the documentation reviewed is delivering compliance against the AML requirements, duties or responsibilities of the Practice Unit. The review has identified only limited scope for improvement in existing arrangements and as such it is not anticipated that significant further action is required to reduce the risk of non-compliance.			
<b>Reasonable assurance</b> - - There is a reasonable level of assurance the policy, control or procedure reviewed is delivering compliance against the AML requirements, duties or responsibilities of the Practice Unit. The review has identified some scope for improvement in existing arrangements to reduce the risk of non-compliance with these requirement		1 Practice	
<b>Limited assurance</b> - There is a limited level of assurance that the policy, control, or procedure reviewed is delivering compliance against the AML requirements, duties or responsibilities of the Practice Unit. The review has identified considerable scope for improvement in existing arrangements to reduce the risk of non-compliance with these requirements.	6 Practices	3 Practices	4 Practices

4 Practices that were subject to the reinspection process were referred to the Society's AMLSC - 2 of which resulted in referral of a complaint to the Scottish Solicitors Discipline Tribunal (SSDT). The remaining 2 resulted in no further action taken.

6 of the 7 were subject to a programme of timed remediation overseen by the AML Team (notwithstanding whether or not they were referred to AMLSC). No further action was taken against the remaining practice as issues were minor and they were in the process of winding up business.

### Spotlight on *Single File Reviews*

Across the **7** single file reviews undertaken, the AML Team took varying levels of assurance relating to the practice's application of AML controls to these files.

5 of the 7 reviews were considered to be non-compliant. This meant that there were gaps in compliance found on the file reviewed that was considered to be significant with material impact and a regulatory concern.

The remaining 2 reviews were triaged and (after further investigation) discounted owing to the underlying low-risk nature of the file - leading to no further action taken

2 practices who were subject to single file reviews, were subject to a programme of timed remediation, overseen by the AML Team. 2 Practices were given practical advice in relation to a specific matter of procedural non-compliance.

In addition to the above actions, 4 practices that were subject to a single file review were referred to the Society's AMLSC.

1 practice was then subject to a reinspection and 1 subject to a further limited scope inspection through a Thematic Review. The remaining 2 had no further action taken.

### Medium Risk

43 practices were subject to medium risk inspections in the period April 2021 – April 2022.

These inspections led to a range of outcomes such as no further action required, tailored remediation plans and follow up re-inspections.

The number of medium risk inspections which included AML work increased during the period with some of these (depending on risk) being conducted on-site or partially on site later in the period.

Once again, these reviews have led to a range of outcomes, from no further action required to the authorisation of complaints by the Anti-Money Laundering Sub-Committee (AMLSC) in a number of cases of significant non-compliance usually at smaller practices.



## Assurance – General Observations

Anti-money laundering is *not* a zero-failure regime. The wider intention of our supervisory work is to help build a Scottish legal sector which is engaged with the issues around AML, which understands its risks and obligations and which therefore organically applies itself to the suppression of financial crime through adequate, effective and compliant policies, controls and procedures.

Through our AML assurance work and frequent engagement with the profession, the AML team have made some recurring observations on areas which require improvement in understanding and underlying compliance. These include:

- No evidence of **Senior Management/Partnership engagement** in AML issues (including approval of PCPs)
- PWRAs lacking granular detail in relation to the practice risks
- Lack of evidence regarding the requirement to undertake **holistic risk assessment and due diligence** (over and above verification of identity);
- A general misunderstanding of the additional measures required in higher-risk situations – i.e. what constitutes effective **‘Enhanced Due Diligence’**;
- A lack of demonstrating accurate understanding around the definitions and the application of relevant **Source of Funds/Source of Wealth checks** – and in what circumstances these are relevant;
- A misunderstanding regarding **Beneficial Ownership** (including definitions, dilution issues and what is meant by ‘ultimate beneficial ownership’) and associated CDD requirements;
- Issues regarding contemporaneous, comprehensive and compliant AML-related **record-keeping and document management**;
- A lack of **understanding regarding AML technology** deployed.

The AML team continues to engage the Scottish legal profession around these areas of improvement, including using the observations as the basis for further publications and materials intended to guide and support the profession (see “Guiding the Profession”, Section 8) and in ongoing dialogue with practices during the course of supervisory assurance, AML presentations, conferences and seminars.

### 3. Our supervisory response in relation to the invasion of Ukraine

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We condemn Russia's use of force against Ukraine and its people as an egregious breach of international law.

The sanctions imposed on Russia by the UK Government are a significant part of the global response to Russian aggression and it is imperative that as a profession, we play our part.

As a responsible AML supervisor, we have:

- Issued various statements (including Council resolution) condemning the Russian invasion of Ukraine
- Provided Financial Sanctions information and guidance through our website (including a new FAQs section)
- Assessed the profession's exposure to Russia and Belarus and associated risks and undertaken appropriate supervisory assurance as set against relevant sections of Money Laundering Regulations 2017.

### 4 . AML Training, Competency & Continual Improvement

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- To ensure the ongoing competence of the AML team and others involved in AML supervision, we continue to commission bespoke, specialist AML supervisory training via a third-party AML expert training provider. This has included training on the use of Open-Source Intelligence (OSINT), along with crypto currency and sanctions/proliferation financing. We also invited another Scottish PBS to participate in this training to share knowledge, expertise, and play our part in ensuring consistency in professional body supervision].
- Three members of our AML team are trained to International Compliance Association (ICA) AML Diploma standard, and regularly participate in continued professional development and training courses specifically related to AML. One member of the team has recently embarked on the course and one will undertake the training starting next year.
- We have welcomed OPBAS oversight in supporting our continuous improvement and engaged a third-party AML expert to review our AML supervisory assurance processes in light of their findings and in line with recently released Financial Action Task Force (FATF) Guidance relating to risk-based supervision. We continue to update and strengthen our processes following these reviews.
- This has included significant progress in refreshing, updating and improving our supervisory assurance processes, accordingly, including changes to our AML Certificate, more directional reporting to AML sub-committee and introducing a supervisory assessment of AML culture and awareness at the practices we inspect.

## 5. Participation in National AML Supervisory Forums

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The Society is an active member of key national AML supervisory forums, including the AML Supervisors forum (AMLSF), the Legal Sector AML Affinity Group (LSAG) and the national and regional Legal Sector Information Sharing Working Groups (ISEWGs). We are also members of the national AML Supervisory Forum (AMLSF), alongside other stakeholders such as law enforcement, other professional body supervisors, HMRC, the FCA, HM Treasury and OPBAS. The Society's Head of AML will assume deputy chair of this group in 2023.

Membership of such groups allows the Society to monitor sectoral and national AML developments, issues and trends, help promote joint working, information-sharing, collaboration and consistency in supervisory efforts cross-sector, and ensure ongoing and productive gateways/contacts with key stakeholders.

The Legal Sector ISEWG works to improve information sharing (regarding both AML risk trends and specific threats) between law enforcement and AML supervisors, so contributing to our risk-based approach.

We previously led the efforts to develop and publish fully revised and updated legal sector AML guidance and are also active participants in relevant aspects of the Government's Economic Crime Strategy.



## 6. Reporting Breaches & Concerns

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In response to our obligation under r.46 to take effective measures to encourage the sector to report breaches, the Society operates a reporting concerns' hotline. This hotline allows anonymous concerns to be disclosed by any person (the public, solicitors or others working in the legal sector) via a phonenumber and/or a dedicated webpage contact form. These channels are monitored and managed by the Society's Public Communications Team with agreed escalation routes to the Director of Financial Compliance in respect of any potential AML-related matters.

### Reporting Concerns – Key Numbers

11 Reports Received by Director of Financial Compliance

1 Reports considered to be AML-related

1 Reports were utilised in our inspection programme

Concerns reported are all assessed for AML relevance. A number of reports received during the relevant period were found to be unrelated to AML and where appropriate, reporters were advised by the Society to consider a complaint to the Scottish Legal Complaints Commission (SLCC).

Other official and unofficial channels for reporting breaches or concerns are also available and open to the profession. We have, for example, included a specific section in the AML Certificate which asks respondents to share relevant information or intelligence which may help the Society mitigate AML risk within the sector.

## 7. Suspicious Activity Reporting by the Society

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Under r.46(5) obligations we ourselves are obliged to submit Suspicious Activity Reports (SARs) where we have knowledge or suspicion, or reasonable grounds for suspicion, of money laundering. We consider this to be an essential element of our supervisory duties, and an important gateway by which we share intelligence with law enforcement agencies.

During the reporting period, we submitted **17 SARs** to the National Crime Agency (NCA), based on information gathered and suspicions arising from our inspection work and other activities.

- 7 of these featured suspicions in relation to Chinese money laundering. 11 of the 17 involved international dimensions.
- The 17 SARs arose from a smaller number of firms – i.e., we reported multiple SARs in the course of some inspections



## 8. Guiding the Profession

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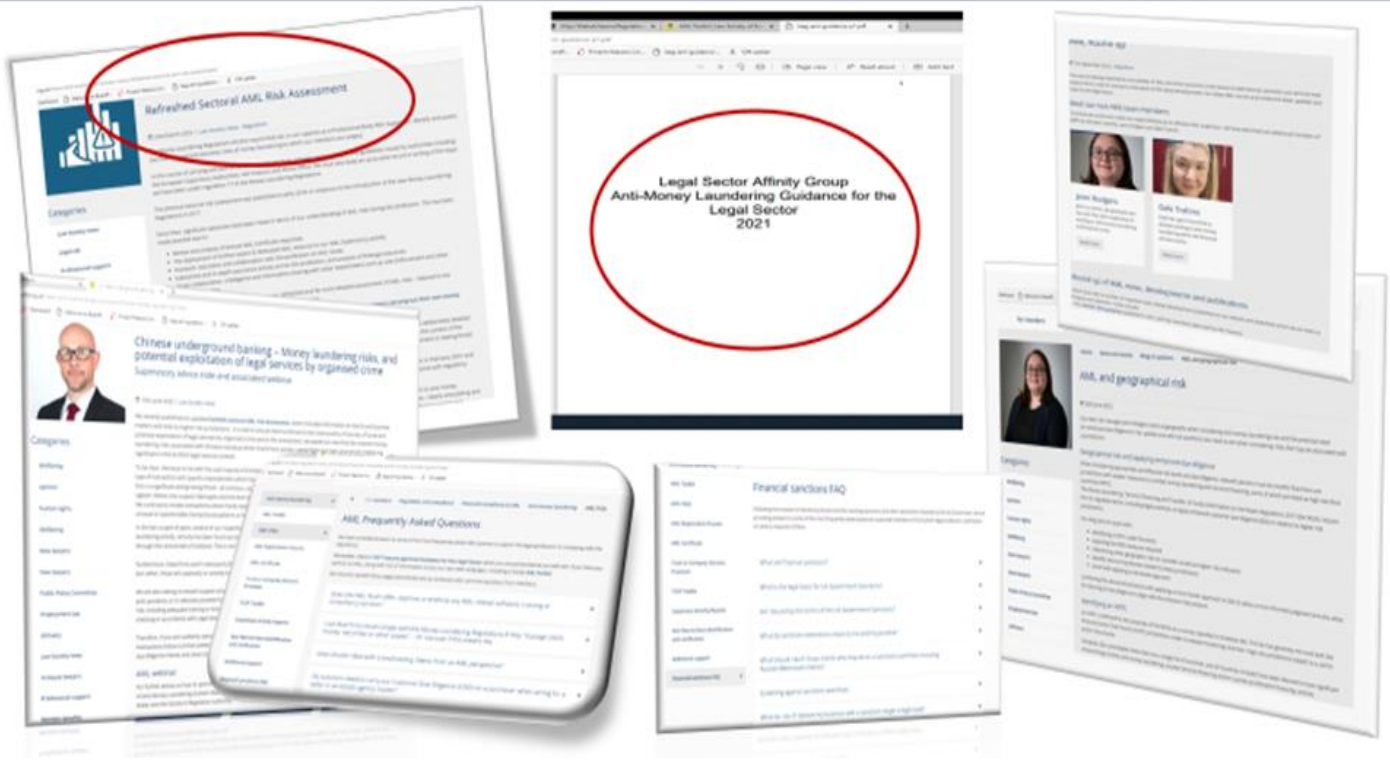
The AML Team also make available relevant and appropriate support and guidance to help the profession achieve compliance with regulatory requirements. To this end, the AML Team have undertaken a number of initiatives, including an extensive AML support section on our website and other continued collaboration with stakeholders and partners. For example we recently took part in a webinar alongside colleagues from the NCA, the SRA and the Law Society of England & Wales regarding the threat of Chinese Money Laundering in the conveyancing market.

The AML Team also uses their extensive presence on social media platforms such as LinkedIn to issue and promote AML-related information, new website content, sources of support and other topical information to both the profession and the wider stakeholder community.

The non-assurance work we undertake is important in the context of the wider support the Society offers its members and as illustrated here, can range from specific assistance to firms on AML matters, ad hoc queries, to webinars, conferences and national projects.

Links to relevant legislation, guidance and templates can be found within the AML pages of the Society's website under our [AML Toolkit](#).<sup>6</sup>

## Continued AML Guidance & Information for Membership



<sup>6</sup> <https://www.lawscot.org.uk/members/regulation-and-compliance/financial-compliance/anti-money-laundering/aml-toolkit/>

### **Case Study - providing appropriate supervisory guidance**

**We recently launched an updated and refreshed [Sectoral Risk Assessment](#)**

*The Money Laundering Regulations r.17 (MLRs) require that we, in our capacity as a Professional Body AML Supervisor, identify and assess the international and domestic risks of money laundering to which our members are subject.*

*In the course of carrying out such a risk assessment we must consider various reports and guidelines issued by authorities including the European Supervisory Authorities, HM Treasury and Home Office. We must also keep an up-to-date record in writing of the steps we have taken under this regulation.*

*The previous sectoral risk assessment was published in early 2018, in response to the introduction of the new Money Laundering Regulations in 2017.*

*Since then, **significant advances have been made in terms of our understanding of AML risks facing the profession. This has been made possible due to:***

- *Review and analysis of annual AML Certificate responses*
- *The deployment of further expert and dedicated AML resource to our AML Supervisory activity*
- *Outreach, education and collaboration with the profession on AML issues*
- *Substantial and in-depth assurance activity across the profession, and analysis of findings/outcomes*
- *Closer collaboration, intelligence and information-sharing with other stakeholders such as Law Enforcement and other supervisory bodies.*

*Given this, we have been able to undertake [a new, refreshed and far more detailed assessment of AML risks](#) – tailored to the circumstances, demographic and context of the Scottish profession.*

*This is a deliberately tailored assessment approach – considering and rating inherent AML risks specifically in the context of the Scottish legal sector - rather than solely repeating the findings of the UK National Risk Assessment or stating broad, legal sector-generic AML risks.*

*This approach is in line with our supervisory risk appetite statement issued to the profession in February 2021 and reflects our desire to drive standards within the profession beyond simply technical compliance with regulatory requirements to supporting a position of underlying effectiveness.*

*If we are to encourage our supervised population to take a risk-based approach to AML we must be prepared to support this by taking a risk-based approach ourselves - clearly articulating and justifying material AML risks as we see them, setting our supervisory expectations, and offering support and guidance in the mitigation of these inherent risks, through incorporating practical considerations and links to further guidance where we can.*

*It is hoped that this will, in turn, support practices to consider risks in the context of their business and encourage them in developing a truly proportionate, risk-based approach to AML control.*

## 9. Moving Forward

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The past year has seen us introduce considerable change and further improvement to the way in which we discharge our AML supervisory responsibilities - employing 2 additional experienced AML team members bolstering our resource and expertise in this area and reflecting the significance and importance the Society places on our AML supervisory duties.

We will embed recently approved Legal Sector Affinity Group (LSAG) AML guidance as a focal point and reference to our supervisory activity and approach, and (although we adopt a risk-based approach to supervision) we will extend our use of supervisory tools such as thematics and attestations to broaden our reach across our membership - ensuring we keep visibility of controls at those practices which may be smaller, or at inherently lower risk of exposure to money laundering.

As an effective supervisor we must remain alive to our external operating environment – as the cost-of-living crisis starts to bite we anticipate a rise in certain types of predicate crimes, particularly those which are acquisitive in nature or take criminal advantage in situations of financial distress.

We must also ensure we remain vigilant in a post-covid Society, for example in terms of the laundering of the proceeds of fraudulently obtained bounce-back loans and that also, that we continue to fulfil our AML supervisory role in the UK's efforts to support Ukraine in its fight against Russian aggression.

We continue to strengthen our partnerships, intelligence-sharing and co-operation with other supervisors and law enforcement agencies seeking formal information sharing protocols where possible.

We welcome the proposed amendment to the Solicitors Scotland Act 1980 (via the recent UK Economic Crime and Corporate Transparency Bill<sup>7</sup>) to remove the existing statutory limits on financial penalties that can be imposed by the Scottish Solicitors Discipline Tribunal (SSDT), for disciplinary matters relating to economic crime.

We continue to actively participate in the Government's Economic Crime reform agenda and stand ready for involvement in the forthcoming HM Treasury consultation regarding the structure of the UK AML supervisory regime. Our objective is to remain at the forefront of providing modern, risk-based and effective AML supervision and believe we are well placed to do so – we would welcome any potential expansion to our supervisory role, pending appropriate dialogue with other stakeholders.

We remain resolutely committed to discharging our AML supervisory obligations in a responsible and effective manner, and will continue to work with our members, holding them to the highest professional standards to ensure the Scottish legal profession continues to be a hostile environment in which to launder the proceeds of crime.

<sup>7</sup> <https://bills.parliament.uk/bills/3339>