



Law Society of Scotland AML/CTF Sectoral Risk Assessment

Assessment of international and domestic risks of money laundering and terrorist financing affecting Scottish solicitors February 2022

Introduction, Background & Purpose:

Under Regulation 17 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, the Law Society of Scotland must identify and assess the international and domestic risks of money laundering to which its members are subject.

Where appropriate, the supervisory authority should make this assessment available to its supervised population, where this might assist relevant persons in undertaking their own money laundering and terrorist financing risk assessment.

In carrying out such a risk assessment supervisors should consider various reports and guidelines issued by authorities such as the European Supervisory Authorities, HM Treasury and Home Office. The supervisory authority must also keep an up-to-date record in writing of the steps it has taken under r.17

We have therefore identified the below publications as important points of reference for identifying and assessing the AML/CTF risks to which Scottish solicitors are subject:

- [HM Treasury/Home Office UK National Risk Assessment of Money Laundering and Terrorist Financing \(NRA\) \(December 2020\)](#)
- [Financial Action Task Force \(FATF\) – Money Laundering Vulnerabilities of Legal Professionals \(2013\) \(link\)](#)
- [Guidance for a Risk-Based Approach - Guidance for Legal Professionals \(June 2019\)](#)
- [European Supra-National AML/CTF Risk Assessment Report 2019](#)
- [National Crime Agency – National Strategic Assessment of Serious & Organised Crime 2021](#)
- [Scottish Government Serious & Organised Crime in Scotland: A Summary of Evidence \(2017\)](#)
- [Scottish Government Serious & Organised Crime Progress Report \(2020\)](#)

Who should use this sectoral risk assessment/who is it aimed at?

This risk assessment is primarily intended to be used by Scottish solicitors and legal practices who are supervised for AML purposes by the Law Society of Scotland

What should Practices do with this information?

A core principle of AML compliance is taking a risk-based approach (RBA).

In short, an RBA refers to adjusting the level and type of compliance work done (frequency, intensity and/or amount), to the risks present. In order to apply a RBA, it is necessary then to have information on the risks inherent to your practice and in any particular client or matter – and the pertinence of these risks - which is why robust risk assessments are so important.

If you have not fully assessed the risks present across your business or in any particular client or matter, you cannot then apply appropriate controls to mitigate those risks adequately and effectively.

The resulting benefits of this approach include:

- More efficient and effective use of resources, proportionate to the risks faced.
- Minimising compliance costs and administrative burdens on practices and clients; and
- Greater flexibility to respond to emerging risks as money laundering and terrorist financing methods change.

Fundamental to this is the undertaking and embedding of a Practice-Wide Risk Assessment (PWRA) into your business, as prescribed under r.18 of the Money Laundering Regulations.

PWRAs should be comprehensive in identifying and assessing all the money laundering and terrorist financing risks your practice faces. The PWRA is central and fundamental to the AML controls implemented across your business and needs to address certain issues, prescribed by the Regulations.

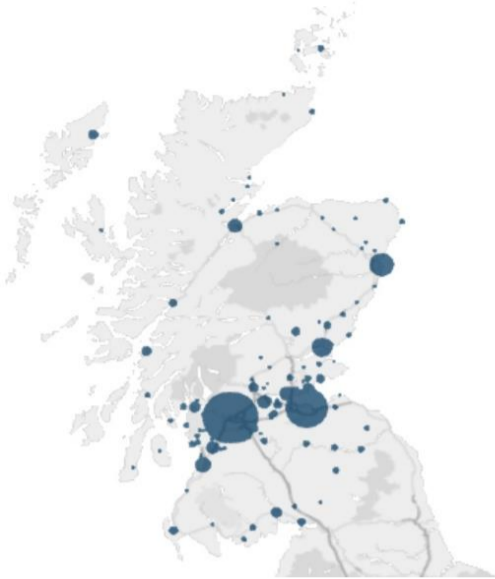
Further information regarding PWRA's can be found in s.5 of the [UK Legal Sector Affinity Group \(LSAG\) Guidance](#)

This document (along with other resources [on our website](#) including [the UK Legal Sector AML Guidance](#)) is aimed at providing information to Scottish solicitors to support in the implementation of robust, risk-based and proportionate AML measures.

As per r.18(2a) the information contained in this document must be used to inform your r.18 Practice-Wide Risk Assessment (PWRA)

Scottish Legal Sectoral Overview: Key Demographics & Stats:

The Law Society of Scotland is the Professional Body AML Supervisor for Scottish solicitors. Of the 1250 practices regulated by the Law Society of Scotland, c. 696 currently operate within the scope of the MLRs.



Our AML Certificate Process

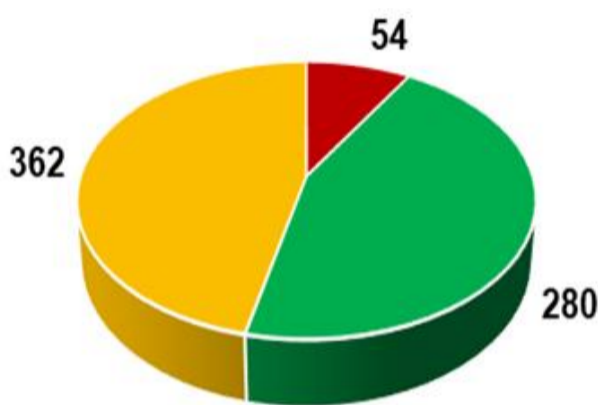
The Society's AML Certificate is an annual compulsory questionnaire issued to in-scope practice units, consisting of c. 50 questions relating to inherent AML risk factors. In line with the MLRs and the UK National Risk Assessment, it focuses on a practice's inherent exposure to higher risk clients and areas of practice such as conveyancing, trust and company provision, along with geographic and delivery channel risk.

Once analysed, the data collected is used to build a risk profile of our supervised population, and can also allow us to

understand specific risks, trends, or issues across individual practices.

This profiling mechanism allows the Society to satisfy 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 Society also sets out our approach to risk-based supervision and associated outcomes in a [Risk Appetite Statement](#) published in February 2021



Through the analysis of our 2020/21 AML Certificate returns, we have built a risk profile of our in-scope supervised population – we believe that 280 practice units represent an inherently lower risk of handling the proceeds of crime, 362 are at medium inherent risk and 54 pose an inherently higher risk given the type of business activities they undertake, the types of clients they hold and their geographical reach.

It is important to note that the risks described in this document may affect all in-scope Practices (to a greater or lesser extent) no matter what their risk profile is.

The analysis of AML certificate information also gives us the ability to identify specific risks within our supervised population and has been used to inform this sectoral risk assessment.

Snapshot: The Nature and Scale of Serious Organised Crime (SOC), and Associated Money Laundering¹

UK:

- >70,000 individuals involved in SOC throughout the UK
- £12bn criminal cash generated annually in UK.
- The total estimated social and economic cost of SOC each year to the UK is at least £24 billion
- Scale of ML impacting on the UK hundreds of billions of pounds annually.

Scotland:

- c. 2,400 individuals involved in SOC in Scotland
- 112 SOC Groups
- 72% of SOCGs are located in the West of Scotland, 18% in the East and 10% in the North.
- In Scotland, it is estimated that SOC costs the Scottish economy alone (i.e., excluding the social cost) £2 billion per year.
 - 72% of SOCGs are involved in the use of seemingly legitimate businesses. The most common business types are licensed premises, taxis, restaurants, shops, garage repairs and vehicle maintenance, property development, care homes, waste/recycling.

Predicate Crime:

Money Laundering is not victimless – it is a serious crime which underpins almost all criminal activity, and the effects are felt across Society, and in each and every local community across Scotland:

- 69% of SOCGs are involved in drug crime; heroin is the most popular commodity, followed by cocaine, cannabis, amphetamine, and tranquilisers.
- Other crime types include violence; money laundering; various forms of fraud including cigarette smuggling, counterfeiting and tax fraud; human trafficking; acquisitive crime such as vehicle and metal theft; environmental crime such as illegal dumping of hazardous materials and cybercrime.
- Human trafficking (including female and child sexual exploitation) occurs throughout Scotland and is not confined to its major cities. Human trafficking has been identified in Argyll, Glasgow, Kirkcaldy, Edinburgh, Skye and Aberdeen.

Given the above data from the Scottish & UK Governments, it can be concluded that practice units across may encounter clients or transactions which involve exposure to SOC and money laundering. It is therefore vitally important that the Scottish legal sector does its utmost to prevent, detect and report potential money laundering.

¹ Figures have been collated from sources including

High Level Money Laundering Risk Matrix – Scottish Legal Sector

The Society has sought to analyse key money laundering risk factors in the Scottish legal sectoral context, based on information/data available from AML Certificate data, open and closed source intelligence, and findings from ongoing assurance work we have undertaken across the in-scope legal practices. We have summarised the risk ratings from various different sources according to the risk classification below:

Substantial Inherent Risk
Moderate Inherent Risk
Limited Inherent Risk

We have done this to facilitate and further enable our supervised population to take a risk-based approach to AML control – in line with our [supervisory risk appetite statement](#)

Practices must remain aware that those factors rated as “limited inherent risk” in the overall Scottish context may still be relevant and/or higher risk in the context, nature or circumstances of their practice, clients or matters they undertake

National Risk Assessment – Key Risks <i>(click link for further detail)</i>	
Conveyancing	
Trust & Company Service Provision	
Misuse & Exploitation of the Client Account	
Sham Litigation	
Notarial Services	
Cryptocurrencies	

Client Risk Factors	
High-Risk Business Sectors/Industries	
Politically Exposed Persons (PEPs)	
Familiar Clients	
Situations where underlying client identity is obscured	
High Client Turnover	

Transactional Risk Factors	
Volume, nature and value of transactions	

Delivery Channel Risk Factors	
Combination of Services	
Non-Face-to Face Delivery Channels	
Clients who use both in and out of scope services	

Geographic Risk Factors	
Clients/matters with links to higher risk jurisdictions	
Money Laundering risks relating to Chinese Individual Direct Investment Activity & High Value Goods Trading	

Emerging/Other Risks	
Pandemic & Post Pandemic-related risks	
Mergers/acquisitions	

Key Findings of the UK National Risk Assessment (NRA)

Risk of Money Laundering through Legal Services

“The risk of abuse of legal services for money laundering purposes remains high overall”.

Legal service providers (LSPs) offer a wide range of services and the services most at risk of exploitation by criminals and corrupt elites for money laundering purposes continue to be conveyancing, trust and company services and client accounts”

Risk of Terrorist Financing through Legal Services

There is limited information available regarding the threat of Terrorist Financing in the legal sector, however, the NRA 2020 states:

“Consistent with the findings of previous NRAs, we continue to assess that legal services are not attractive for terrorism financing and assess the risk to be low”

NRA Risk Factors - What does the Government say are the specific areas of AML Risk to the Legal Sector?

Legal Sector Risks	NRA Excerpts	Risk Rating & Practical Considerations	Areas of Higher Inherent Risk Examples from the Latest AML Certificate
Conveyancing	<p><i>“LSPs remain essential to the purchase of property in the UK, and we continue to consider conveyancing services related to both residential and commercial properties at high risk of abuse for money laundering due to the high value and large volume of transactions”</i></p> <p><i>Buying property in the UK remains attractive to both foreign and domestic criminals seeking to conceal large amounts of illicit funds, disguise their ownership, realise the proceeds of their criminal activities, or even see an investment return on them.</i></p> <p><i>Although further evidence is needed to ascertain geographical conveyancing risks, it is likely that criminals favour locations with high value residential properties such as London or university towns due to high demand and potential investment return opportunities. However, commercial properties are also attractive for money laundering purposes, as they often carry an equally high price.</i></p> <p><i>Not all conveyancing poses the same level of risk of criminal exploitation. Red flags indicating a higher risk of money laundering may include (but are not limited</i></p>	<p>We agree with the NRA finding, and we continue to see examples (size, volume and/or nature) of potentially concerning or suspicious activity in this area of legal practice, particularly where conveyancing is coupled with other risk factors.</p> <p>We view inherent risks associated with conveyancing as significant in the Scottish legal sectoral context.</p> <p>Although the vast majority of conveyancing transactions are entirely legitimate, and the legal services provided in this area are a core constituent of the legitimate Scottish economy, we believe that residential and commercial conveyancing poses the highest risk of money laundering in the Scottish legal profession.</p> <ul style="list-style-type: none"> • Property is often a high value asset – it offers the opportunity to legitimatise large amounts of money in one go. • The value of property generally appreciates – this is unusual for criminals who usually lose money when laundering. • The nature of conveyancing means that matters/transactions often happen extremely quickly – and therefore it is easier to hide behind a complicated 	<p>Conveyancing transactions (Residential & Commercial) account for 66.76% of all AML regulated matters conducted in 2020 by the Law Society of Scotland’s membership.</p> <ul style="list-style-type: none"> • 3,061 conveyancing matters (residential and commercial) were conducted on behalf of clients whose business interests were known to be in a higher risk industry, such as cash intensive businesses, extractive industries (oil and gas) and gambling. • 83 Residential conveyancing matters were completed for UK based Politically Exposed Persons (PEPs) • 9 Residential conveyancing matters were completed for Non-UK PEPs with links to the following jurisdictions: China, Pakistan, United States of America, and the

	<p>to): • clients seeking anonymity buying property through complex corporate structures, such as companies based in secrecy jurisdictions which can mask the ultimate beneficial owner. • clients buying the property without a mortgage from a financial institution with no verifiable source of income justifying their wealth. • conveyancing transactions that involve multiple LSPs. • customers that are PEPs from high corruption- risk jurisdictions and those charged with or alleged to have committed corruption offence</p>	<p>money trail which can be constructed very quickly, and the onward sale of a property can give the appearance of a legitimate income stream.</p> <ul style="list-style-type: none"> • Property can be used to generate additional quasi-legitimate income streams e.g., rental; and • Property can be used by the money launderer or an associate as a residence. Transfers of real estate from one owner to another without the exchange of funds, may present an equal risk to the purchase of property <p>Practical Considerations:</p> <ul style="list-style-type: none"> • Conveyancing risks can increase when conveyancing transactions are combined with other services or other high-risk factors, particularly higher risk industries, geographical risks, Politically Exposed Persons, or where the transaction involves trust and company services which could be used to obscure ownership. • Risks are also increased where the property purchase is funded privately or from a non-regulated source, as opposed to lending from a financial institution regulated for AML purposes. • Practice Units must ensure practice-wide risk assessments are holistic in nature, identify and provide requisite detailed consideration regarding the size, volume and nature of conveyancing work undertaken, including any additional risk factors involved. • Client and matter risk assessments should detail the background, nature and circumstances of the client or matter in question. in light of the conveyancing to be performed • Due diligence undertaken should also detail, explain and evidence the underlying sources of funds/wealth used in the matter. 	<p>Bahamas.</p> <ul style="list-style-type: none"> • 33 Commercial conveyancing matters were completed involving Non-UK based PEPs, with links to the following jurisdictions: Chile, Saudi Arabia, Cayman Islands, Denmark, Greece, Hong Kong, Jersey, United States, British Virgin Islands & Russia.
<p>Trust & Company Service Provision (TCSP)</p>	<p><i>“Consistent with the findings of previous NRAs, we continue to assess there is a risk that negligent or complicit LSPs unwittingly or willingly facilitating money laundering through their provision of trust and company services_(TCSPs)”</i></p> <p><i>If TCSP services are coupled with other risk factors such as complex structures intended to conceal</i></p>	<p>We agree with the NRA finding and we continue to see examples (size, volume and/or nature) of potentially concerning or suspicious activity in this area of legal practice.</p> <p>We view inherent risks associated with Trust & Company Service provision as moderate in the Scottish legal sectoral context.</p>	<ul style="list-style-type: none"> • Formation of Companies - 108 Companies with Non-UK ownership formed in 2020. Jurisdictions included Switzerland, Isle of Man, United States, Luxembourg, Panama, and British Indian Ocean Territories.

beneficial ownership or parties outside the UK, the risk may increase”.

While the majority of trusts, partnerships and companies are formed for legitimate reasons, and TCSPs are not requisite to the abuse of legal entities and arrangements for illicit purposes, TCSPs can assist in their exploitation for money laundering.

If TCSP services are coupled with other risk factors such as complex structures intended to conceal beneficial ownership or parties outside the UK, the risk may increase.

The risk of money laundering through TCSP services provided by LSPs can be heightened by poor compliance with the MLRs.

Although the vast majority of trusts and companies set up by Scottish solicitors are entirely legitimate, a risk remains that a solicitor’s knowledge and expertise can be used to create, manage, administer complex entity structures which can obscure/hide beneficial ownership of assets. These risks can increase when combined with other services such as conveyancing or the use of client accounts - or other high-risk factors, particularly higher risk industries, geographical risks and/or Politically Exposed Persons.

One way in which criminal enterprises can seek validation is through holding registered offices at law Practices or by having positions such as director, secretary or even nominee shareholders held by a solicitor at these Practices. For example, by providing their address as registered offices to businesses or entities it can provide a legitimacy to that business and act as a gateway not only to Scotland but also the UK and beyond.

Practical Considerations:

- Practitioners should be aware of the increased risks associated when TCSP Services are coupled with other risk factors such as complex corporate/beneficial ownership structures (which can have the effect, intentional or otherwise, of concealing or obscuring beneficial ownership) the risk can increase. This is particularly the case where structures lead or are domiciled in jurisdictions where beneficial ownership records are not available or are difficult to obtain.
- Practices should also consider that the AML risks involved in TCSP work may be more challenging to identify than in other in-scope areas, due to the fact that work may be incorrectly seen as a piece of ancillary work on another related matter (in or out of scope), rather than a distinct piece of in scope TCSP work which brings with it AML compliance requirements.
- Practice Units must ensure TCSP work undertaken is considered as integral to work undertaken rather than ancillary, secondary or supplementary to other work.
- Practice-wide risk assessments should be holistic in nature, identify and provide requisite detailed

- **Scottish Limited Partnerships - 44** Scottish Limited Partnerships were formed or managed with Non-UK ownership, this includes jurisdictions such as: Bahamas, France, United States, Venezuela, and South Korea.

- **Registered Offices - 524** Companies that have Non-UK ownership included jurisdictions such as: The Bahamas, Cyprus, China, Bermuda, Syria & Faroe Islands.

		<p>consideration regarding the size, volume and nature of TCSP work undertaken, including any additional risk factors involved.</p> <ul style="list-style-type: none"> • Client and matter risk assessments should detail the background, nature and circumstances of the client or matter in question, in light of the TCSP work to be performed • Where appropriate, due diligence undertaken should also detail, explain and evidence any underlying sources of funds/wealth used in the matter. 	
<p>Misuse & Exploitation of the Client Account</p>	<p><i>“The NRA 2017 found that client accounts are at risk of being exploited by criminals to move illicit funds to third parties. We consider this continues to be a risk as the use of client accounts is attractive because it breaks the audit trail, facilitating the laundering of funds”</i></p> <p><i>Recent cases suggest that client accounts remain at risk of exploitation by criminals and that criminals are employing methodologies such as sham litigations and fraudulent investment schemes through client accounts.</i></p> <p><i>LSPs often use client accounts to hold and move money on behalf of their clients for related legal services. Money may move through these accounts rapidly and in large sums to third parties.</i></p>	<p>We agree with the NRA finding and we continue to see examples (size, volume and/or nature) of potentially concerning or suspicious activity in this area of legal practice.</p> <p>We view inherent risks associated with Misuse & Exploitation of the Client Account as moderate in the Scottish legal sectoral context.</p> <p>Monies which have come from established sources such as a solicitors client account can break audit trails whilst adding a veneer of respectability to transactions, in turn this may be less liable to be scrutinised.</p> <p>Potential client account misuse could include:</p> <ul style="list-style-type: none"> • Utilisation of the client account as a “banking facility” on behalf of clients. • Monies sent to client accounts and received back, without an associated underlying legal transaction, or the transaction having been aborted. Once the funds have been received and then returned by the Practice it can disrupt and distort associated audit trails and make funds appear as though from legitimate, respectable origin. <p><u>Practical Considerations:</u></p> <ul style="list-style-type: none"> • Ensure any funds received into a client account should be in relation to a legitimate underlying transaction. • Implementation of robust controls should be implemented regarding staff access and management of client funds 	<ul style="list-style-type: none"> • Aborted Transactions: 148 instances where conveyancing transactions were aborted after funds had already been received to the relevant client account

		<ul style="list-style-type: none"> Consider limiting or banning cash deposits into your client account 	
Sham Litigation	<p><i>“Recent civil society research suggests the UK court system is vulnerable to being exploited for money laundering.</i></p> <p><i>Money could be laundered when criminals, often those from overseas jurisdictions, agree to sue each other in the English court with the payment of damages being used to launder their funds. They can also arrange to bring cases against themselves using sham companies”</i></p>	<p>We note the NRA finding; however, we have not seen examples to-date of potentially concerning or suspicious activity in this area of legal practice</p> <p>We currently view inherent risks associated with Sham Litigation as limited in the Scottish legal sectoral context.</p> <p>Practices should continue to be aware of and vigilant to these risks.</p> <p>Examples of sham litigation include:</p> <ul style="list-style-type: none"> A fabricated dispute over a debt which doesn’t actually exist. Instances whereby the client appears to settle a matter before the Practice can act. E.g., Overseas client approaches a UK Practice for help pursuing a UK business. The Law Practice agrees, and the client sends funds for advance fees. The client then announces that the dispute has been settled without law Practice intervention and requests return of funds minus a small fee. The money which is returned has now been ‘laundered’ through the law Practice. <p><u>Practical Considerations:</u></p> <p>Practices should take the appropriate steps at the outset of each matter to conduct the required due diligence and gather an understanding of the client before any work is undertaken. In the above instances.</p> <p>Practices can take actions such as:</p> <ul style="list-style-type: none"> Undertake supplementary checks regarding the underlying nature of any lawsuit Check for any connections between litigant parties Be alert to any sudden changes of instruction 	
Notarial Services	<p><i>“Research suggests that notary services could be exploited for money laundering by willingly or unwittingly verifying forged documents to help customers obtain overseas bank accounts”.</i></p>	<p>We note the NRA finding; however, we have seen only limited examples to-date of potentially concerning or suspicious activity in this area of legal practice</p>	

		<p>We currently view inherent risks associated with Notarial Services as limited in the Scottish legal sectoral context.</p> <p>Practices should continue to be aware of and vigilant to this risk.</p>	
Cryptocurrencies	<p><i>“Legal sector PBSs also noted that several firms had asked about receiving payments in cryptocurrencies or money raised through crowdfunding.</i></p> <p><i>We are unsighted on how frequent such requests are, however, it is likely that they will increase as crypto assets grow in popularity. While use of crypto assets alone is not necessarily suspicious, crypto assets can be used to disguise the origin of funds more easily than other payment methods”.</i></p>	<p>We note the NRA finding; however, we have seen only limited examples to-date of potentially concerning or suspicious activity in this area of legal practice.</p> <p>We currently view inherent risks associated with Cryptocurrency as limited in the Scottish legal sectoral context.</p> <p>Practice Units should continue to be aware of and vigilant to this risk, and the Society will also continue to monitor any developing risks in this space.</p> <p>We note that the volatility of crypto currencies may be unattractive in terms of the money laundering process, albeit the use of cryptocurrency in funding underlying predicate crime is indisputable</p>	<ul style="list-style-type: none"> • AML Certificate data shows only 4 matters were conducted in 2020 where a Cryptocurrency was used.

Client Risk Factors

Specific Risk Factor	Detail	Risk Rating, Examples of Higher Inherent Risk (where applicable) & Practical Considerations
High-Risk Business Sectors/ Industries	<p>Clients engaged in business areas or sectors which are associated with higher levels of money laundering or corruption can prove to be a significant risk factor and the nature of their business should always be a consideration when undertaking client matters.</p> <p>A new business in any sector that presents significant financial barriers to entry or may be seen as entering a new or unproven market should be considered as potentially higher risk.</p> <p>Where an entity has access to an illegitimate source of funding, it may find it easier to establish itself in a difficult business environment.</p>	<p>We view inherent risks associated with High-Risk Business Sectors/ Industries as significant in the Scottish legal sectoral context.</p> <p>We continue to review matters involving potentially concerning or suspicious activity and high-risk businesses, across a wide range of practices.</p> <p>Higher risk sectors of particular relevance in the local Scottish context (<i>and therefore may warrant further scrutiny/the application of enhanced due diligence</i>) may include:</p> <ul style="list-style-type: none"> • Cash intensive businesses (take away restaurants, hairdressers, nail or tanning salons, pubs and bars, bespoke candy stores/sweet shops etc.)

Specific Risk Factor	Detail	Risk Rating, Examples of Higher Inherent Risk (where applicable) & Practical Considerations
	<p>A list of high-risk industries can be found in LSAG Guidance s5.6.1.3.</p>	<ul style="list-style-type: none"> • Taxi Firms • Garages/Second-Hand Car Sales • Unregistered Care Providers • Waste Management Companies • Private Security Companies • Logistics Companies • Unregulated short-term lenders/bridging loan providers • “Quick-sale” home purchase businesses • Money services (Bureau de change, Cheque cashing) • Businesses providing services which are refunded through government-backed schemes • Construction • Gambling (Bookmakers, casinos) • Extractive industries (Oil & Gas) <p>Practices must remain vigilant to such risks when conducting Practice-wide, client, and matter risk assessments.</p> <ul style="list-style-type: none"> • 3061 Conveyancing matters (Residential & Commercial) have been conducted where the business interest of the client was/is known to be a higher risk industry. This is just short of 2% of all conveyancing matters.
<p>Politically Exposed Persons (PEPs)</p>	<p>PEPs, their family members and their known close associates may present a higher risk than non-PEPs as they may be at greater risk of abusing public office for private gain and further, a PEP may use the services of the legal sector to launder the proceeds of this abuse of office.</p> <p>Further information, including definitions, risk assessment steps and appropriate controls including screening measures), can be found in the LSAG Guidance s 5.6.1.2 and 6.19.3</p>	<p>We view inherent risks associated with PEPs as moderate in the Scottish legal sectoral context.</p> <p>We continue to review limited matters involving potentially concerning or suspicious activity and PEPs, across a range of practices.</p> <p>Latest AML Certificate statistics reveal:</p> <ul style="list-style-type: none"> • 489 PEPs were provided with a regulated service in 2020 by Scottish Legal Practices. • 425 were UK PEPs and 64 were Non-UK PEPs. • Non-UK PEPs were linked to a number of high-risk jurisdictions such as: China, Afghanistan, Pakistan, Russia, and Cayman Islands <p>Of our regulated member population of c.700 just under 10% have undertaken a regulated service on behalf of a PEP (although it is noted that this may be higher as electronic PEP screening is not standard practice across the whole profession), whilst only 40% of the membership hold/maintain a PEP register for ongoing monitoring.</p>

Specific Risk Factor	Detail	Risk Rating, Examples of Higher Inherent Risk (where applicable) & Practical Considerations
		<p>If you act for a PEP or an entity which may be owned/controlled by PEPs, or commonly provide services which may be attractive to PEPs, you should address this directly in your PWRA and client assessments, as well as any mitigating steps you may take to guard against the risks.</p> <p>Enhanced Due Diligence <u>must</u> be performed when undertaking or conducting business with a PEP.</p>
Familiar Clients	<p>Dealing with individuals who the practice, partners or staff are familiar with (such as longstanding business or personal acquaintances/friends) may lead to inadequate due diligence being performed, and therefore lead to higher inherent money laundering risk.</p>	<p>We view inherent risks associated with longstanding or familiar clients as moderate in the Scottish legal sectoral context (risks are heightened if coupled with other inherent risk factors).</p> <p>The Society continues to review significant volumes of transactions where basic and requisite levels of due diligence have not been undertaken due to the perceived familiarity of the solicitor/fee earner to the client. Some of these have involved potentially concerning or suspicious activity.</p> <p>Practices should seek to account for and appropriately challenge assumptions of the low-risk nature of clients with whom there is a non-professional relationship. Appropriate verification of information that may already be known (or believe to be known) about clients should also be completed to ensure all the checks required have been completed.</p> <p>Practices should be aware that there is no provision in the Regulations for waiving CDD requirements on the basis of long-standing or personal relationships. Taking this approach will not satisfy the requirement to undertake independent verification, though these factors may inform your risk-based approach</p>
Situations where underlying client identity is obscured	<p>Situations where underlying client or beneficial ownership identity is obscured can present higher inherent money laundering risk</p> <p>There are several ways in which underlying client details may be obscured or not entirely clear. These include the use of intermediaries or agents (although there are a wide variety of reasons or situations where such use is entirely appropriate and legitimate, the use of complex structures or jurisdictions where beneficial ownership registers are not held or are not accessible, or simply where the client cannot produce satisfactory identity verification (e.g., an elderly client or refugee).</p>	<p>We view inherent risks associated with situations where underlying client identity is obscured as moderate in the Scottish legal sectoral context (risks are heightened if coupled with other inherent risk factors).</p> <p>We continue to review transactions involving potentially concerning or suspicious activity where client identity is obscured, across a range of practices.</p> <p>Care and consideration should always be taken at the beginning of a client matter to correctly identify all involved parties and the underlying client or beneficial owners related to the matter along with consideration as to how many of your client relationships are carried out through third parties or intermediaries.</p>
High Client Turnover	<p>If a Practice has a higher client turnover it may be that the practice does or will not have the opportunity to understand the client's circumstances or background in any detail, therefore the lack of a long and/or strong</p>	<p>We currently view inherent risks associated with high client turnover as limited in the Scottish legal sectoral context</p>

Specific Risk Factor	Detail	Risk Rating, Examples of Higher Inherent Risk (where applicable) & Practical Considerations
	client relationship or an underlying knowledge of the client may mean greater inherent AML risk.	<p>We have seen only limited examples to-date of potentially concerning or suspicious activity, explicitly due to high client turnover.</p> <p>Practice Units should continue to be aware of and vigilant to risks in this area of legal practice.</p> <p>Advances in technology may have mitigated risks in this area – particularly in the sphere of EID&V, and Screening. Practice Units which do operate in such environments or to such business models should pay particular consideration to establishing and evidencing underlying sources of funds/wealth involved in the transaction. Systems featuring Open Banking technology may support practices in this area, although they cannot offer a full solution to this area of AML control.</p> <p>Practices should always consider the duration and nature of your client relationships, particularly in the context of your business e.g., a practice whose main business is high volume conveyancing would be expected to have a very different client turnover to practices offering boutique or specialist services to a smaller number of clients.</p> <p>This may vary across the different areas of your business, and this variation should be reflected in any risk ratings made.</p>

Transaction Risk Factors

Specific Risk Factor	Detail	Risk Rating in Scottish Legal Sectoral Context
Volume, nature and value of transactions	Large, complex, high-value or linked high-volume transactions which are unusual for the client, sector or context may present higher money laundering risk, if there appears to be no suitable reason or rationale for the value transferred, the volume of transfers or the pattern/structure of the transaction.	<p>We view inherent risks associated with the volume, nature and value of transactions as significant in the Scottish legal sectoral context.</p> <p>The Society continues to review transactions where the size, volume, nature or rationale of funding structure is unusual, questionable or has not otherwise been reasonably accounted for.</p> <p>Particular care and attention should be given to matters where funding appears to be being provided by otherwise unrelated third party/s. This risk is exacerbated where source of funds investigations reveals large volumes or values/round-amounts of cash coming from such third-party sources</p> <p>Practice Units must ensure practice-wide, client and matter risk assessment processes are holistic in nature, identify and provide requisite detailed consideration regarding the background, nature and circumstances of the client or matter in question. Risk Assessments should also detail, explain and (on a risk-based approach) evidence the underlying sources of funds/wealth used in the matter.</p>

Delivery Channel Risk Factors

Specific Risk Factor	Detail	Risk Rating in Scottish Legal Sectoral Context
Combination of Services	<p>As highlighted elsewhere in this document money laundering risks can increase where Services and risk factors are combined (e.g., setting up a trust or company to undertake a high-value conveyance where the beneficiary/beneficial owner is an overseas PEP)</p>	<p>We view inherent risks associated with combining services as significant in the Scottish legal sectoral context.</p> <p>The Society continues to review transactions which pose increased risks due to higher risk services being offered in combination with or in situations where multiple higher risk factors are present.</p> <p>The AML Certificate 2020 results revealed 1205 clients provided with a combination of conveyancing and trust or company services (excluding executry work) including 435 clients who were Non-UK. Jurisdictions included United States, Isle of Man, Czech Republic, South Africa, Switzerland, United Arab Emirates, Luxembourg, Malta, British Virgin Islands &, Jersey</p> <p>Practice Units must ensure practice-wide, client and matter risk assessment processes are holistic in nature, identify and consider all risks in tandem, and provide requisite detail and analysis regarding the full background, nature and circumstances of the client or matter in question</p>
Non-Face-to Face Delivery Channels	<p>Non F2F onboarding and ongoing relationships (whether via online, telephony, mobile apps etc.) can increase the risk of identity fraud and can help facilitate anonymity.</p>	<p>We currently view inherent risks associated with non-face-to-face delivery channels as limited in the Scottish legal sectoral context</p> <p>We have seen only limited examples to-date of potentially concerning or suspicious activity, explicitly due to relationships being conducted on a Non-Face to Face basis</p> <p>Practice Units should continue to be aware of and vigilant to risks in this area of legal practice.</p> <p>AML Certificate data reveals that there were 28,209 Non-Face to Face Residential Conveyancing Matters undertaken by Scottish solicitors in 2020 – accounting for 16.22% of all conveyancing matters. There were 1901 Non-Face to Face Commercial Conveyancing matters – 1.09% of all conveyancing matters</p> <p>In an increasingly digital age, it is clear that non-face-to-face customer onboarding can no longer be viewed as always high risk, although when you act for clients without meeting them you must be satisfied that it makes sense in all the circumstances that you have not met the client and you should be comfortable that you can mitigate the risks of identity fraud.</p>

Specific Risk Factor	Detail	Risk Rating in Scottish Legal Sectoral Context
		<p>Situations where clients appear unnecessarily reluctant or evasive about meeting in person should be noted as a cause for concern and treated as a higher risk factor.</p> <p>Practices should consider whether any form of Enhanced Due Diligence may be appropriate.</p> <p>Practices and practitioners are reminded to adopt a risk-based approach, considering the contents of their practice-wide risk assessment, policies and procedures (and where necessary updating them) and the circumstances of individual clients/matters.</p> <p>As an alternative to face-to-face documentary verification, legal practices and practitioners may adopt or further utilise electronic means of ID&V where appropriate to the risks present in the client/transaction.</p>
Clients who use both in and out of scope services	<p>Risks can arise where clients use different services across the legal practice, particularly where the client relationship has been formed originally for out-of-scope work, and the client approaches the Practice again to undertake in-scope work.</p> <p>Following a risk-based approach, some practices may have separate process for onboarding depending on the service (in or out of scope) being offered. This is of course permissible; however, risks may arise where no further due diligence is undertaken before in-scope work is performed.</p>	<p>We currently view inherent risks associated with clients who use both in and out of scope services as limited in the Scottish legal sectoral context</p> <p>We have not seen examples to-date of potentially concerning or suspicious activity, caused by Practices offering both in and out of scope services to the same client.</p> <p>Practice Units should continue to be aware of and vigilant to risks in this area of legal practice.</p> <p>To mitigate this risk practices may either have clear and robust PCPs in place to manage the transition or conduct full AML-compliant CDD regardless of the nature of the matter. This may enable a client to be transferred more easily between a practice's out-of-scope and in-scope services.</p>

Geographic Risk Factors

Specific Risk Factor	Detail	Risk Rating in Scottish Legal Sectoral Context
Clients/matters with links to higher risk jurisdictions	<p>Geographic risk refers to the countries or geographic areas in which your business operates, receives funds from or where clients reside.</p>	<p>We view inherent risks associated with clients/matters with links to higher risk jurisdictions as significant in the Scottish legal sectoral context.</p>

Specific Risk Factor	Detail	Risk Rating in Scottish Legal Sectoral Context
	<p>Additional risk may also arise due to any social, cultural or language ties which might increase a link to a known high risk jurisdiction country or geographic area.</p> <p>Practices should be aware that specific geographic risks extend to jurisdictions beyond simply the UK's "High-Risk Third Countries" list or the Financial Action Task Force (FATF) High Risk and other monitored jurisdictions lists</p> <p>Scenarios involving jurisdictions deemed to be high risk could include:</p> <ul style="list-style-type: none"> • Jurisdictions with known higher levels of corruption or organised crime • Jurisdictions where there is lack of transparency in corporate registries or provide other means of anonymity to individuals or entities • Jurisdictions with a nexus or link to the production and distribution of drugs. • Countries which have been identified by credible sources as not having adequate AML/CTF controls. • Clients who are domiciled in/operate in countries subject to sanctions, embargoes, or similar measures. • Clients who are domiciled in/operate in countries identified by credible sources as providing support for terrorist activities, or that have designated terrorist organisations operating within their country. <p><i>N.B. declining to onboard a client or a group of clients solely due to a client's nationality is not in the letter nor spirit of anti-money laundering control, is wholly unacceptable and may lead to charges of discrimination and/or create access to justice issues for your practice.</i></p>	<p>The Society continues to review transactions which pose increased geographic risks, predominately regarding the geographic source of funds used in transaction, the client's residential status or where beneficial ownership of trusts/entities extends through or to higher risk jurisdictions.</p> <p>Practice Units must ensure practice-wide, client and matter risk assessment processes fully identify and analyse all potential sources of geographical risk. This could be from a specific section of client-base with ties to a higher risk jurisdiction, sources of funds/wealth originating from jurisdictions of higher risk (this can be directly or indirectly even if first channelled through a UK bank), clients residing/domiciled in higher risk jurisdictions or where beneficial ownership of trusts/entities extends through or to higher risk jurisdictions.</p> <p>Enhanced Due Diligence must be undertaken when undertaking any business relationship or transaction with a person established in a jurisdiction on the UK's high-risk third country list.</p> <p>Enhanced due diligence should also be performed in any other case which by its nature can present a higher risk of money laundering or terrorist financing. This may include clients/transactions or relationship which have a nexus to higher risk jurisdictions, or associated geographic risk</p> <p>The AML Certificate 2020 shows that Scottish solicitors undertook business involving clients or transactions with a nexus to a wide range of higher-risk jurisdictions such as Afghanistan, Azerbaijan, Bahamas, Barbados, Belize, Bermuda, BVI, Cayman Islands, China, Cyprus, Iran, Lebanon, Liberia, Macau, Mauritius, Panama, Russia, Saudi Arabia, Syria, United States, & Venezuela.</p>
<p>Money Laundering risks relating to Chinese Individual Direct Investment Activity & High Value Goods Trading</p>	<p>China is an example of a country that has significant constraints on its citizens investing or moving capital abroad. Chinese nationals are restricted in terms of the value and use of funds taken out of the country. Individual Direct Investment Activity – for example buying property overseas for the purposes of investment or letting etc. is strictly prohibited under the scheme.</p> <p>This has led to some people using alternative shadow banking networks or money service dealers to move wealth out of the country. Money is paid to the dealer in China, and that dealer then arranges for an equivalent sum of money to be paid into a UK bank account of the Chinese persons choosing. I.e., the money handed over to</p>	<p>We view inherent risks associated with Chinese Individual Direct Investment Activity & High Value Goods Trading as significant in the Scottish legal sectoral context.</p> <p>The Society continues to review transactions where funds received from China, or from sources with a nexus or other links to China, are unusual, questionable or has not otherwise been reasonably accounted for.</p> <p>Robust identification and analysis of the source of funds involved in the transaction are critical where there is a risk that money has passed through one of these</p>

Specific Risk Factor	Detail	Risk Rating in Scottish Legal Sectoral Context
	<p>the dealer in China is not the same money as that which is paid into the UK bank account – the value is transferring the money is not.</p> <p>These networks often have a dual purpose of moving illicit funds for criminals (the money actually paid into UK accounts is often criminal in origin), while facilitating people to sidestep local capital controls.</p> <p>This means that funds that pass through these networks will generally be the proceeds of crime, even if the client is not themselves a criminal. You may consider such networks as illegal money transfer businesses.</p> <p>Practices should also be aware of the practice of “Diagou” – the practice of purchasing (usually high-value/luxury) goods, transporting them back to China and selling them. This is not, in itself illegal in the UK or in China, as long as all local laws and tariffs are complied with. Daigou operators in the UK often experience significant difficulty in funding these activities and moving proceeds to China, and often turn to criminal sources to fund their businesses, and to underground networks to transfer value back from China – often to fund property purchases in the UK.</p> <p>Further detailed explanation can be found on the National Crime Agency website</p> <p><i>N.B. declining to onboard a client or a group of clients solely due to a client’s nationality is not in the letter nor spirit of anti-money laundering control, is wholly unacceptable and may lead to charges of discrimination and/or create access to justice issues for your practice.</i></p>	<p>networks, including underlying origin of the funds and evidencing the connection between any third-party funders and the client.</p> <p>Solicitors should also be alert to evidence of multiple cash deposits from various sources, possibly in round amounts – as often the criminals involved will use a network of individuals to distribute and deposit proceeds into bank accounts. Solicitors should also be alert to multiple payments made to high value goods retailers/brands when reviewing client’s bank statements</p> <p>Where Chinese nationals go through the proper channels to take funds out of the country – they will have a form which is often called a Chinese overseas money transfer form – or similar. This will cite the details of the money taken out, including its purpose. Solicitors should ask for sight of this form as part of their due diligence in such situations and verify that the actual use of funds tie in with what is stated on the form. Caution should be exercised where the stated use differs from actual use.</p>

Emerging/Other Risks

Specific Risk Factor	Detail	Risk Rating in Scottish Legal Sectoral Context
Pandemic and Post Pandemic -related risks	<p>A key pandemic-related risk arises for solicitors in the risk assessment process itself. The pandemic has meant that business models and dynamics have changed, and this has the potential to change the outcomes of risk assessment</p> <p>What was once perhaps low risk, may currently be high risk. Higher risks may be inherent across business sectors where cashflows should have slowed or stopped due to changing customer or public behaviour.</p>	<p>We view inherent risks associated with the pandemic as moderate in the Scottish legal sectoral context</p> <p>The Society currently has limited evidence to suggest this to be a particular threat in the local/Scottish context albeit we are monitoring the situation closely.</p> <p>Practice Units should continue to be aware of and vigilant to these risks.</p> <p>Practices should be alert to these changes and ask relevant</p>

Specific Risk Factor	Detail	Risk Rating in Scottish Legal Sectoral Context
	<p>Practices should also be alert to the potential for fraud related to pandemic related government schemes.</p> <p>The post- pandemic environment has given further opportunity for criminals to launder money. Practices themselves facing pandemic-related financial pressures may be the driver for financial crime risk – and may lead to them taking on business they have no experience or expertise in, or not knowing the risks inherent in those types of activity or client.</p> <p>There may be increased pressure to undertake transactions or taking on clients without, perhaps not upholding quite as high a standard of due diligence or scrutiny as they may have done previously. Practices may feel forced into introducing new capital to the business, and perhaps may not therefore undertake adequate due diligence regarding the source of this funding.</p>	<p>questions regarding underlying generation of cash or changes in underlying source of funds.</p> <p>Practice Units must ensure practice-wide, client and matter risk assessment processes are holistic in nature, identify and provide requisite detailed consideration regarding the background, nature and circumstances of the client or matter in question. Risk Assessments should also detail, explain and (on a risk-based approach) evidence the underlying sources of funds/wealth used in the matter.</p> <p>Requisite due diligence should be undertaken to ascertain the underlying source of any capital or other funding introduced to the Practice from external/third party sources</p>
Mergers/acquisitions	<p>AML risks are inherent in situations where a Practice merges with or acquires another, and therefore assumes responsibility for the underlying client-base, relationships and transactions. Risks may arise when appropriate, compliant risk assessments, due diligence and other AML controls have not been implemented or performed.</p>	<p>We currently view inherent risks associated with mergers/acquisitions as limited in the Scottish legal sectoral context</p> <p>We have seen not seen examples of potentially concerning or suspicious activity, explicitly due to the merger/acquisition of Practice Units</p> <p>Practice Units should continue to be aware of and vigilant to risks in this area of legal practice particularly as further consolidation of the sector occurs</p> <p>When a practice acquires the business and customers of another practice, either as a whole, or as a portfolio, the acquiring practice should be aware of the AML risks inherent in the acquired portfolio and the strength of controls which were in place to mitigate these risks.</p> <p>The acquiring practice’s due diligence enquiries should include some sample testing in order to ensure that the customer identification procedures previously followed by the acquired practice have been carried out correctly. Practices may wish to consider how much you can rely on any of the CDD done by the practice being acquired and whether remediation is required</p>