Solicitors Regulation Authority

Topic guide

Published 3 April 2020

Anti-money laundering

Background

Keeping the profession free of money laundering is in everyone's interest. It is a key way of disrupting serious crime which funds everything from terrorists to people traffickers.

Money laundering is a priority risk for us. The credibility of law firms makes them an obvious target for criminals. The overwhelming majority of solicitors want to do the right thing. Yet that alone is not enough. Weak processes or undertrained staff can leave the door open for criminals.

This guidance relates to our approach to investigating individuals and firms when we discover non-compliance with anti-money laundering legislation, in particular the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended in 2019 ("the regulations"). It should be read in conjunction with our Enforcement Strategy [https://www.sra.org.uk/sra/corporate-strategy/sra-enforcement-strategy/] .

Our approach to enforcement

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

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

We regard instances of deliberate involvement in money-laundering very seriously and work with law enforcement to ensure that robust action is taken. Our Enforcement Strategy is clear that at the most serious end of the spectrum are convictions for money laundering offences. This reflects the important role of solicitors in preventing organised crime, and the protection they can provide by taking this role seriously.

Application of the Standards and Regulations

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

In not complying with the regulations, or with our directions as supervisor, individuals and firms may also potentially breach other aspects of our

Standards and Regulations.

Anti- Money Laundering Requirements

These requirements are highlighted in the regulations [http://www.legislation.gov.uk/uksi/2017/692/made] and the legal sector guidance [https://www.sra.org.uk/globalassets/documents/solicitors/code/lsag-anti-money-laundering-guidance.pdf?version=490290] and include, for example:

- Firms must have in place a written and up to date firm-wide risk assessment that is unique to the firm under Regulation 18, identifying the risks of money laundering and terrorist financing that are relevant to it
- Providing and recording suitable training for staff within the organisation
- Appointing a Money Laundering Reporting Officer (MLRO) and where relevant a Money Laundering Compliance Officer (MLCO)
- Conducting appropriate Customer Due Diligence (CDD) and Enhanced Due Diligence (EDD)
- Keeping records about CDD and EDD and
- Making disclosures of suspicious activity to the NCA, under the Proceeds of Crime Act 2002.

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

Common aggravating and mitigating features

In considering what action we need to take, if any, we will consider any mitigating and aggravating factors, including those set out below.

Mitigating features	Aggravating features
Steps taken to comply with the requirement they are in breach of.	No steps taken to comply with the requirement they are in breach of.
A clear plan to achieve compliance and to ensure likelihood of repetition is low, with a reasonable timeframe for completion.	Failure or refusal to comply, act on our advice or to take appropriate steps to reduce likelihood of repetition.
There has been minimal impact on the risk the firm may have been used for money laundering and/or terrorist financing.	There has been a significant impact on the risk that the firm may have been used for money laundering or resulted in money laundering, terrorist-financing or harm to the public.

Isolated incident	It is a repeated failure demonstrating a pattern of behaviour or culture.
The non-compliance of the firm was primarily due to circumstances outside of their control.	There is evidence the non-compliance of the firm was intentional or was despite full knowledge of the requirements.

Indicative sanctions guidelines

We aim to encourage a culture of learning from mistakes and improving standards.

Strong mitigating factors will generally result in us supporting firms to meet the requirements and improve standards. This may involve making sure that appropriate training, documentation, policies, procedures and controls are in place

In certain circumstances we may seek to agree or impose conditions or controls to prevent an individual from holding certain roles (MLRO and MLCO), if we do not consider they can do so safely and effectively.

Where there are failures that are non-trivial, numerous, repeated or indicative of persistent non-compliance, we are likely to impose a sanction, such as a rebuke or fine. Where matters are particularly serious, indicating wilful non-compliance, dishonest cover up, or significant risk to the public, we may impose more severe sanctions or prosecute the matter before the Solicitors Disciplinary Tribunal, which has additional sanctions available to it for most of the firms we regulate such as a large fine, or suspension or strike off of any solicitors involved.