

## **Warning notice**

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## **Money laundering and terrorist financing**

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## **Status**

This document is to help you understand your obligations and how to comply with them. We may have regard to it when exercising our regulatory functions.

## **Who is this warning notice relevant to?**

This warning notice is relevant to all regulated persons who have a legal obligation to make sure that they:

- report any suspicious transactions.
- do not facilitate money laundering or terrorist financing

This notice highlights warning signs which you should be aware of, and which may require you to take action in order to avoid committing a criminal offence or breaching your professional obligations under the SRA Standards and Regulations.

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) came into force on 26 June 2017 replacing the Money Laundering Regulations 2007.

## **The SRA Standards and Regulations**

Paragraph 7.1 of the Code of Conduct for Solicitors, RELs and RFLs requires you to keep up to date with and follow the law and regulation governing the way you work. This obligation includes making sure you comply with your legal obligations under the Proceeds of Crime Act 2002, the Terrorism Act 2000 and the MLR 2017.

You must make sure you do not facilitate money laundering, even when money does not pass through your firm's accounts. Your firm should have appropriate policies and procedures in place to protect it from being used for money laundering or terrorist financing as per requirements 2.1(a) and 2.5 of the Code of Conduct for Firms.

## **Our concerns**

We supervise those we regulate for compliance with money laundering legislation. Firms must comply with the MLR 2017 and any future legislation that comes into force. We are concerned that some firms may not be complying by failing to have adequate systems and controls in place to prevent, detect and report money laundering.

The Financial Action Task Force (FATF), an independent inter-governmental body, issued a report in 2013 [<http://www.fatf-gafi.org/media/fatf/documents/reports/ML%20and%20TF%20vulnerabilities%20legal%20professionals.pdf>] highlighting the vulnerabilities of legal professionals to money laundering and terrorist financing, in which it identified 42 'Red Flag Indicators'.

Being aware of these indicators or warning signs of money laundering and terrorist financing should assist you in applying a risk-based approach to meeting your obligations under the MLR 2017 and other money laundering legislation. If red flag indicators are present in your dealings with a client, you should ask further questions and consider making a suspicious activity report to your firm's Money Laundering Reporting Officer (MLRO) or the National Crime Agency, as appropriate.

The warning signs highlighted by FATF include:

If the client:

- Is secretive or evasive about who they are, the reason for the transaction, or the source of funds.
- Uses an intermediary, or does not appear to be directing the transaction, or appears to be disguising the real client.
- Avoids personal contact without good reason.
- Refuses to provide information or documentation or the documentation provided is suspicious.
- Has criminal associations.
- Has an unusual level of knowledge about money laundering processes.
- Does not appear to have a business association with the other parties but appears to be connected to them.

If the source of funds is unusual, such as:

- Large cash payments.
- Unexplained payments from a third party.
- Large private funding that does not fit the business or personal profile of the payer.
- Loans from non-institutional lenders.
- Use of corporate assets to fund private expenditure of individuals.
- Use of multiple accounts or foreign accounts.

If the transaction has unusual features, such as:

- Size, nature, frequency or manner of execution.
- Early repayment of mortgages/loans.
- Short repayment periods for borrowing.
- An excessively high value is placed on assets/securities.
- It is potentially loss making.
- Involving unnecessarily complicated structures or steps in transaction.
- Repetitive instructions involving common features/parties or back to back transactions with assets rapidly changing value.
- The transaction is unusual for the client, type of business or age of the business.
- Unexplained urgency, requests for short cuts or changes to the transaction particularly at last minute.
- Use of a Power of Attorney in unusual circumstances.
- No obvious commercial purpose to the transaction.
- Instructions to retain documents or to hold money in your client account.



- Abandoning transaction and/or requests to make payments to third parties or back to source.
- Monies passing directly between the parties.
- Litigation which is settled too easily or quickly and with little involvement by you.

If the instructions are unusual for your business such as:

- Outside your or your firm's area of expertise or normal business, or if client is not local to you and there is no explanation as to why a firm in your locality has been chosen.
- Willingness of client to pay high fees.
- Unexplained changes to legal advisers.
- Your client appears unconcerned or lacks knowledge about the transaction.

If there are geographical concerns such as:

- Unexplained connections with and movement of monies between other jurisdictions.
- Connections with jurisdictions which are subject to sanctions or are suspect because drug production, terrorism or corruption is prevalent, or there is a lack of [money laundering regulation](http://www.lawsociety.org.uk/support-services/risk-compliance/anti-money-laundering/sanctions-high-risk-jurisdictions/) [<http://www.lawsociety.org.uk/support-services/risk-compliance/anti-money-laundering/sanctions-high-risk-jurisdictions/>].

FATF has also published [detailed guidance](http://www.fatf-gafi.org/media/fatf/documents/reports/Risk-Based-Approach-Legal-Professionals.pdf) [<http://www.fatf-gafi.org/media/fatf/documents/reports/Risk-Based-Approach-Legal-Professionals.pdf>] on how legal professionals may apply a risk-based approach to their efforts to prevent money laundering and terrorist financing. The guidance focuses on risk identification, assessment, management and mitigation and may aid you in assessing and improving the relevant procedures and practices in your work.

## **Our expectations**

We expect all firms and individuals regulated by us to comply with money laundering legislation including taking appropriate steps to conduct customer due diligence when required to do so by the MLR 2017. We expect firms and individuals to be aware of, and act properly upon, warning signs that a transaction may be suspicious.

Failure to comply with this warning notice may lead to disciplinary action, criminal prosecution, or both.

## **Further help**

Read [full guidance on the MLR 2017](https://update.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-transfer-funds-information-payer-regulations-2017/) [<https://update.sra.org.uk/solicitors/guidance/money-laundering-terrorist-financing-transfer-funds-information-payer-regulations-2017/>].

If you require further assistance, please contact the [Professional Ethics helpline](https://update.sra.org.uk/contactus/) [<https://update.sra.org.uk/contactus/>].