**Instructions**

* The Law Society has developed this sample adaptable Questionnaire to assist solicitors when assessing ML/TF risk particular to the legal sector.
* The questionnaire is designed to be used in conjunction with the sample adaptable ‘Document your Customer Risk Assessment’ Forms.
* This questionnaire details risk factors and questions which can be considered when assessing the risk of an AML-regulated legal service. Please use the notes column to summarise observations/assessment of risks involved where the issue is applicable to the client/transaction being considered.
* **Not all questions will be relevant or applicable to all situations. Conversely, the questions outlined are non-exhaustive – there may be other pertinent risk factors which should be taken into account, dependent upon the nature of the client/transaction being considered.** The Law Society recommends that all employees in solicitors’ firms develop their knowledge of legal sector ML/TF risks by accessing the comprehensive resources in ***‘Step 1 – Develop your knowledge of ML/TF risks inherent in legal services’*** in Section 2 – 2018 Guidance.
* Chapter 9 of the Society’s 2010 Guidance Notes also details non-exhaustive red flags/indicators of suspicion. Highlights include:
* Activities which have no apparent purpose, make no obvious economic sense, involve unusual losses, are unnecessarily complex, involve non-resident accounts, companies or structures, activities are without reasonable explanation/out of the ordinary range of services/inconsistent with client (paragraph 9.5)
* Excessively obstructive/secretive clients, clients who insist transactions be done inordinately quickly, use aliases, recent new relationships with financial entities, legal fees paid by third parties or in cash, avoids providing identification for group of companies by offering agent identification only (paragraph 9.6(a))
* Transactions involving areas outside of Ireland/no apparent ties to Ireland/crosses many international lines/involves wire transfers/foreign currency exchanges with locations of concern/known to facilitate money laundering/secretive banking and corporate law/illicit drug production/no effective AML system (paragraph 9.6(f))
* Property transactions where client arrives at a closing with a significant amount of cash/property purchased in the name of nominees (associates/relatives)/requests for name not to be connected with property/requests for different names to be used on different documents/last minute name substitutions/property below market value with an additional “under the table” payment/deposits paid by a third party/cash deposits/unusual source or offshore bank deposit/corporate veil purchases when inconsistent with ordinary business practice of client/property purchases without inspecting property/multiple property purchases in short time period with few concerns about location, condition/rent paid or amount of a lease in advance using a large amount of cash (paragraph 9.6(h)
* Cash (large payments in actual cash/lodged to accounts) (paragraph 9.14 to 9.16)
* In addition, the Guidance Notes highlight potential issues with companies and non-face-to-face transactions as follows:
* “It is … generally recognised that the use of companies, even when fronted by legitimate trading companies, are the most likely vehicles for large scale money laundering” (paragraph 6.21)
* “Any mechanism (e.g. post, telephone, or electronic) that avoids face-to-face contact between a solicitor and a prospective new client inevitably poses challenges for client identification. Legal services conducted on the Internet adds a new dimension to risks and opens up new mechanisms for fraud and money laundering”  (paragraph 6.20)
* Solicitors should refer to section 4 of 2018 Guidance for complete guidance about Customer Risk Assessments. In summary, solicitors have a statutory duty, when assessing ML/TF risk of each AML-regulated legal service, to have regard to:

1. their firm’s Business Risk Assessment,
2. information about legal sector risk in the National Risk Assessment
3. guidance about risk issued by the Law Society
4. any relevant risk variables, including at least the following:
5. the purpose of an AML-regulated legal service
6. the level of assets/size of transactions undertaken
7. the regularity of transactions or duration of the business relationship
8. the presence of any potentially low risk factor specified in Schedule 3
9. the presence of any potentially high risk factor specified in Schedule 4

After you have completed the questionnaire, the next step is to ‘document your thought process’ in one of the Customer Risk Assessment Forms relevant to the current stage of the instruction.

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| ***CLIENT RISK*** | ***NOTES*** |
| **STATUS OF CLIENT**   * How well do you know your client and background? * Is your client known to you personally/existing client, or new business relationship? * Is your client a PEP? * Has your client been introduced to you by a 3rd Party? Is the instruction from your client channelled through a 3rd party? If so, why? * Are you aware of your client having any links to criminality? |  |
| **FACE-TO-FACE CONTACT**   * Have you met with your client face-to-face or is it a non-face-to-face transaction? Non-face-to-face is a factor suggesting potentially higher risk. * If non-face-to-face, are you comfortable there is a legitimate reason for this and what is the reason? |  |
| **LOCATION OF CLIENT**   * Where is your client based? Locally/Ireland/EU/other international location? * Is your client based/resident/linked to a high risk jurisdiction/high risk third country? * Does your client have connections to a jurisdiction where ML controls may not be as tight as in the EU? Are funds being sent to/from any of these places? |  |
| **ID & ADDRESS VERIFICATION**   * Has your client provided acceptable standard ID and address verification? * Has your client provided acceptable non-standard ID and address verification? * Have you been able to confirm the authenticity/professional status of the certifier of any copies of ID/address verification? * Has your client been cooperative in the process or have they delayed providing ID and address verification / appeared reluctant to do so? |  |
| **FINANCIAL PROFILE OF CLIENT**   * Does the stated source of wealth / source of funds and the amount of money involved stack up with what you know of your client, for example given their age and occupation? (if no, or other ML/TF risks arise, enhanced CDD may require establishing source of wealth and source of funds) * Is your client involved in / run a high risk or high cash turnover business? Is there the potential that the funds are from untaxed income? Is there a potential the funds are the proceeds of fraud/social welfare fraud? |  |

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| ***AML-REGULATED LEGAL SERVICE RISK*** | ***NOTES*** |
| **TYPE OF LEGAL SERVICE**   * Could the type of transaction be used for the purposes of money laundering or is it at a higher risk of money laundering?   - Eg, Will / Power of Attorney - lower risk  - Estate Agency / Conveyancing / Commercial Property - higher risk   * Does the transaction make sense or is it overly complex given the underlying nature of the business being conducted? * Does it make sense that your client has asked your firm to carry out this type of transaction? (e.g. is it within your area of expertise/local geographical area?) |  |
| **VALUE OF LEGAL SERVICE/ASSET/TRANSACTION**   * Does the value of the transaction appear to fall within the financial means of your client, given their income and savings? |  |
| **SOURCE OF FUNDS**   * Is the source of funds clear and identifiable? * Are funds coming from a recognised financial/credit institution (e.g. a loan or mortgage) or are they personal funds? If no loan or mortgage, enquire into the source of wealth. It may be prudent to ask for some supporting evidence to confirm the information provided and then reconsider the ML/TF risks involved. * Is any funding coming from overseas? From where? From who? Connection to client? * Are any of the funds being paid by a third party otherwise unconnected to the transaction? * Does your client seek to change the source of funds at the last minute? * Has your client paid excess funds into your client account? Why/How? * Is it being proposed that funds come from outside the EU and gain entry to the EU financial system for the first time via your client account? * Could the client be trying to route funds through the solicitor without an underlying transaction? [N.B. This would be contrary to the Solicitors' Accounts Regulations and solicitors’ firms should not provide a banking service for their clients: *“Client accounts should only be used to hold client money for legitimate transactions for clients, or for another proper legal purpose. Money-launderers will seek to route ‘dirty’ money through a solicitor’s client account in order to ‘clean’ it, either by asking for the money to be returned or by purchasing a clean asset with the funds.”* (Paragraph 9.13 – 2010 Guidance)]   ***N.B. Standard CDD requires solicitors to understand the client’s source of funds/wealth. Evidence of source of funds/wealth is only required if there is a high ML/TF risk and, in such circumstances, solicitors must consider whether any documentation could possibly negate the risk that the solicitor might themselves unwittingly commit the substantive offence of ML/TF by proceeding.***  *Please see further ‘Do I need to obtain evidence or “determine” the source of funds?’ and ‘Establishing source of wealth and funds’ in Section 5 - 2018 Guidance* |  |
| **DESTINATION OF FUNDS**   * Has your client requested that proceeds of a transaction be paid to someone other than a lender or themselves? * Are proceeds of a transaction to be paid to an overseas account? |  |

**Reminder -** After you have completed the questionnaire, complete the relevant ‘’document your thought process’ form (provided separately) to document your thought process for individual ML/TF Customer Risk Assessment, CDD measures and any other compliance decisions.

*The Law Society accepts no responsibility for any compliance failures or loss incurred as a result of reliance on this sample questionnaire. Solicitors’ firms must always ensure they are in compliance with all of their statutory AML obligations.* *The Law Society is grateful to the Law Society of Scotland on whose template form this questionnaire is based, adapted for the Irish legislative framework.*