



The Faculty Office Update – First Issue

Dear Notary

Proliferation Financing

The Money Laundering and Terrorist Financing (Amendment) (No. 2) Regulations 2022 which came into force in September 2022 have created a new obligation for regulated entities to identify, assess and mitigate the risk of proliferation financing.

Key points to note:

- “Proliferation financing” means the act of providing funds or financial services for use, in whole or in part, in the manufacture, acquisition, development, export, trans-shipment, brokering, transport, transfer, stockpiling of, or otherwise in connection with the possession or use of, chemical, biological, radiological or nuclear weapons, including the provision of funds or financial services in connection with the means of delivery of such weapons and other chemical, biological, radiological or nuclear - related goods and technology, in contravention of a relevant financial sanctions obligation.
- Non-compliance with sanctions relating to proliferation financing could result in reputational damage should a breach occur. It is also a criminal offence under the sanctions regulations.
- To comply, notaries can create a new risk assessment specific to proliferation financing or incorporate proliferation financing into the existing AML/CTF risk assessments.
- Notaries are also required to implement policies, controls, and procedures to mitigate any identified or potential risks effectively.

More information is available on from guidance published by the [Financial Action Task Force](#) (FATF) and [HMT's National Risk Assessment of Proliferation Financing](#).

Register of overseas entities – Economic Crime (Transparency and Enforcement) Act 2022

In January 2023 we included a reminder on the Faculty Office website that under the Economic Crime (Transparency and Enforcement) Act 2022 all overseas entities (being a legal entity governed by the law of a country or territory outside the UK) which own or lease property or land in the UK must register beneficial ownership information with Companies House on the Register of Overseas Entities by **31 January 2023**. Failure to register in time will be a criminal offence with fines payable of up to £2,500 per day of non-compliance or a five-year prison sentence.

Legal Ombudsman Scheme Rules

A reminder that there have been changes to the LeO's Scheme Rules (the rules governing how they deal with client complaints). A summary of the changes can be found on the LeO's website. You can find more information on this on the Faculty Office website [here](#). The most pressing change you will need to make is to paragraph 6 of the prescribed form of complaints wording that you must give to clients under Rule 8.1.4 the Notaries Practice Rules 2019. This should now read:

"6. If you decide to make a complaint to the Legal Ombudsman, you must refer your matter to the Legal Ombudsman within one year from the act/omission or within one year from when you should reasonably have known there was cause for complaint."

Legal Sector Affinity Group Guidance

The Legal Sector Affinity Group (LSAG) has today published the latest update to its Treasury approved [guidance](#) on preventing money laundering in the legal sector, reflecting recent amendments to the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017. The changes include:

- Guidance on the new requirement to carry out proliferation financing risk assessments, either as part of the firm's existing practice-wide risk assessment or as a standalone document.
- Changes to the duty to report discrepancies to company registries – from **1 April 2023**, these will only need to be made in certain defined circumstances.

The LSAG have also issued an [advisory note](#) that explores the key risks arising from the legal and illegal use of informal value transfer systems in the Chinese context, along with the circumvention of Chinese foreign currency controls. It also provides practical measures to help mitigate these risks. This note is supplementary to the main guidance and does not supersede it.

List of high-risk countries

[The Money Laundering and Terrorist Financing \(High-Risk Countries\) \(Amendment\) \(No. 3\) Regulations](#) added Democratic Republic of the Congo, Mozambique and Tanzania to the list of High-Risk Countries and removed Nicaragua and Pakistan for the purposes of enhanced customer due diligence requirements in regulation 33(3) of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLR 2017) from 15 November 2022.

Remote notarisation

This [guidance](#) aims to assist notaries in deciding whether it is appropriate to authenticate the signing or execution of a document or otherwise intervene remotely using remote technologies and sets out the procedures to be adopted in such cases.

Annual practising certificate renewals

A reminder that under the [Notaries \(Required Continuing Professional Education\)\(Anti-Money Laundering Training\) Order 2022](#) at least one of the credit points required to be obtained by each notary, whether as part of the basic or special continuing professional education requirement, must be obtained in the subject of anti-money laundering and counter terrorism financing applicable to the United Kingdom.

At the end of this year, we will be asking notaries to provide their anti-money laundering firmwide risk assessments and policies and procedures.

Office for implementation of financial sanctions (OFSI)

OFSI has updated its Enforcement and Monetary Penalty [guidance](#) to include details on its approach to assessing breaches of financial sanctions where an incorrect assessment of ownership and control of an entity is relevant to the commission of the breach. This updated guidance sets out examples and a principles-based approach for conducting due diligence and making assessments.

The general financial sanctions [guidance](#) has also been updated.

Reporting to your supervisor

Notaries are required to report breaches under the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (as amended) ("the regulations") and sets out the circumstances in which breaches must be reported.

Schedule 4 (12) of the regulations state that supervisors must collect information regarding *"the number of contraventions of these Regulations committed by supervised persons"*.

Legal sector AML supervisors such as the Faculty Office collect this information for the purposes of reviewing and assessing breaches of the regulations building up an intelligence picture to enhance our risk-based approach to supervision.

Legal practices within scope of the regulations must therefore report such contraventions (or “breaches”) to their supervisor. The regulations do not however set out a *de-minimus* limit in terms of the types of breaches to be reported. We wish to receive information that is useful to us, either for building up an intelligence picture or because it may be a serious breach that we need to assess, and potentially investigate. We recognise the need to balance these requirements with the possible burden that reporting places on the regulated population. In line with a risk-based approach, this note will help you decide what information you should report.

You must report breaches of the regulations to the Faculty Office, where you have not complied with the requirements of the regulations and where the result of a breach has been serious.

Non-exhaustive examples of serious breaches include:

- Intentional or wilfully negligent breaches of legal requirements in relation to applicable anti-money laundering legislation or regulation
- Repeated unintentional or repeated accidental breaches of legal requirements in relation to applicable anti-money laundering legislation or regulation
- Systemic breaches associated with a failure of AML-related policies, controls or procedures
- The facilitation of business activities which bear the hallmarks of money laundering activity (*this does not replace the legal requirement to file a SAR where appropriate*)

You must also report breaches of related legislation for which the Faculty Office does not have a direct regulatory responsibility but is still relevant to your ability to prevent financial crime (for example breaches of Financial Sanctions legislation).

Register for the New SAR Portal demonstration starting at 14.30 Tuesday 25 April 2023.

The UKFIU expect there will be a high demand for this event and have confirmed that registration will be on a first come basis. Points to note:

- The demonstration will signpost user start up guides and help SAR makers get ready and prepared for the New SAR Portal.

Under certain circumstances and dependent on what operating system you use attendees have had some difficulties viewing the webinar, especially when accessing the webinar from a work PC. To ensure you have no issues on the day, please test whether you are able to access the webinar software before the event by clicking on the link here.

[View System Requirements.](#)

- It is also recommended to join a test session; this should take no longer than 5 mins and will ensure you have no issues accessing the webinar. [Join a test Session](#)
- If you do have difficulties accessing the webinar via your work I.T. due to security protocols simply forward the invite to your personal email address and you can view the webinar on a smart phone, tablet/iPad or personal computer.
- Please click [here](#) to register for the event. After registering, you will receive a confirmation email containing information about joining the webinar.