GLAISYERS ETL GLOBAL

ANTI MONEY LAUNDERING PROCEDURES

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CONTENTS

1. INTRODUCTION

Money laundering is the means by which criminals make the proceeds of crime appear legitimate. Money laundering is generally defined as the process by which the proceeds of crime, and the true ownership of those proceeds, are changed so that the proceeds appear to come from a legitimate source. Under the Proceeds of Crime Act (POCA), the definition is broader and more subtle.
Money laundering can arise from small profits and savings from relatively minor crimes, such as regulatory breaches, minor tax evasion or benefit fraud.
There are three acknowledged phases to money laundering: placement, layering and integration. However, the broader definition of money laundering offences in POCA includes even passive possession of criminal property as money laundering.

1. Placement

Cash generated from crime is placed in the financial system. This is the point when proceeds of crime are most apparent and at risk of detection. Because banks and financial institutions have developed AML procedures, criminals look for other ways of placing cash within the financial system. Independent legal professionals can be targeted because they and their practices commonly deal with client money.

2. Layering

Once the proceeds of crime are in the financial system, layering involves obscuring the origins of the proceeds by passing them through complex transactions. These often involve different entities, for example, companies and trusts and can take place in multiple jurisdictions. An independent legal professional may be targeted at this stage and detection can be difficult.

3. Integration

Once the origin of the funds has been obscured, the criminal is able to make the funds appear to be legitimate funds or assets. They will invest funds in legitimate businesses or other forms of investment, often, for example, using an independent legal professional to buy a property, set up a trust, acquire a company, or even settle litigation, among other activities. This is the most difficult stage at which to detect money laundering.
The National Crime Agency (NCA) believes that money laundering costs the UK over £37 billion a year1. Through preventing money laundering, we can take away criminals' incentives to traffic weapons, trade drugs or engage in human trafficking. Money laundering also includes the funding of terrorism, irrespective of the source of funds. So by preventing money laundering we help reduce corruption and create a better, safer society.
The SRA is responsible for the supervision of anti-money laundering (AML) of solicitors, and we take our responsibilities very seriously. We owe a duty to society at large, and to protect the integrity of the legal sector through tackling professional enablers of money laundering.

If the UK legal sector is to remain a trusted profession, we must work to identify those who would willingly help money launderers, and inform the NCA.
This manual deals with policies introduced or produced specifically by this firm to assist you all in complying with the relevant legislation and in particular the **Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017 (as amended) (the Regulations).**
The nominated **Money Laundering Reporting Officer** under the Regulations is Nick Johnson.
This introduction will now look at the following:

1. Identifying and Assessing Risk
2. Enchanced Due Diligence
3. Who is a PEP

2. IDENTIFYING AND ASSESSING RISK

The 2017 National Risk Assessment said:

Legal services remain attractive to criminals due to the credibility and respectability they can convey, helping to distance funds from their illicit source and integrate them into the legitimate economy.
The national risk assessment goes on to say that although there is some deliberate involvement in money laundering within the legal sector, the majority of cases are due to either negligence or wilful ignorance. But professional enablers are crucial to successful money laundering and therefore it is essential that the legal profession and its regulator disrupt and prevent such activity.
As such, the national risk assessment rated the legal sector as high risk of being used for money laundering, although low risk of being used for terrorist financing. In particular, the risk assessment identifies solicitors as being at a high risk of money laundering because of the range of high risk services they may offer.
Criminals may use a combination of legal services to add layers of complexity to a transaction. They may also use Chinese Walls (or information barriers) within a law firm, or several legal firms to separate instructions which, taken together, might raise suspicion. The National Risk Assessment also raised instances of lawyers falsely claiming legal professional privilege as posing a risk to the law enforcement response to preventing money laundering.
The National Risk Assessment went on to say:
The government recognises that legal professional privilege is a vital part of the UK's legal system and that ensuring that it is applied correctly in all circumstances is important in mitigating money laundering risk.
None of the risk factors below are reason alone for the legal sector to withdraw from operating in these ways or offering these services. We need to be aware of the risk, manage it properly and keep ourselves and the public safe. Done properly these are all services that help the legal market meet the legitimate needs of society. If we design and operate sound risk management systems we have little to fear. The Solicitors Regulatory Authority "SRA" will not tolerate firms that are cavalier about preventing money laundering, putting their practices and society at risk.
In preparing this policy we take into account the current guidance from the SRA, Law Society and other relevant agencies when looking at risk and the policies we need to have in place.

Risk Factors

Risk is the likelihood of money laundering or terrorist financing taking place through our business. Risk refers to the inherent level of risk before any mitigation – it does not refer to the residual risk that remains after you have put mitigation in place. Risk can exist in isolation, or through a combination of factors that increase or decrease the risk posed by the client or transaction. The different types of risk factors that the business considers to be significant are set out in **Appendix 1.**

Enchanced due diligence

Regulation 33 provides that you will need to apply enhanced due diligence in addition to the Client Due Diligence measures required in Regulation 28, on a risk-sensitive basis where:

- the case has been identified as one where there is a high risk of money laundering or terrorist financing in your risk assessment or in the information made available to you by your supervisor under Regulations 17(9) and 47
- the client is a politically exposed person (PEP), or a family member or known close associate of a PEP
- the client or transaction is in a high-risk third country
- the client has provided false, misleading or stolen identification documentation or information on establishing the relationship and you have decided to continue dealing with the client
- wherever the transaction:
    - is complex and unusually large or there is an unusual pattern of transactions, and
    - the transaction or transactions have no apparent economic or legal purpose
- there is any other situation which can present a higher risk of money laundering or terrorist financing

The Regulations specify that you must take measures to examine the background and purpose of the transaction and to increase the monitoring of the business relationship where enhanced due diligence is required.

In applying the risk-based approach to the situation you should consider whether it is appropriate to:

- seek further verification of the client or beneficial owner's identity from independent reliable sources
- obtain more detail on the ownership and control structure and financial situation of the client
- request further information on the purpose of the retainer or the source of the funds, and/or
- conduct enhanced ongoing monitoring

Do not undertake such work unless approved by your departmental head.

Who is a PEP?

A person who has been entrusted within the last year (or for a longer period if you consider it appropriate to address the risks in relation to that person) with one of the following prominent public functions by a community institution, an international body, or a state, including the UK:

- heads of state, heads of government, ministers and deputy or assistant ministers
- members of parliament or similar legislative bodies
- members of governing bodies of political parties
- members of supreme courts, of constitutional courts, or any judicial body whose decisions are not subject to further appeal, except in exceptional circumstances
- members of courts of auditors or of the boards of central banks
- ambassadors, charges d'affaires and high-ranking officers in the armed forces
- members of the administrative, management or supervisory bodies of state-owned enterprises
- directors, deputy directors and members of the board of equivalent function of an international organisation

Middle ranking and junior officials are not PEPs. In the UK, only those who hold truly prominent positions should be treated as PEPs and the definition should not be applied to local government, more junior members of the civil service or military officials other than those holding the most senior ranks. Section 2.16 of the FCA guidance referred to above sets out the FCA's view of what categories of person should be treated as PEPs in the UK.

In addition to the primary PEPs listed above, a PEP also includes:

- family members of a PEP – spouse, civil partner, children, their spouses or partners, and parents
- known close associates of a PEP – persons with whom joint beneficial ownership of a legal entity or legal arrangement is held, with whom there are close business relationships, or who is a sole beneficial owner of a legal entity or arrangement set up by the primary PEP.
- Where a person is a domestic PEP, family member or known class associate and where they are entrusted with prominent public functions by the United Kingdom then the starting point for any assessment is that they present a lower level of risk than a non-domestic PEP. In such circumstances if no enhanced risk factors are present the extent of enhanced due diligence to be applied is less than the extent to be applied to a non-domestic PEP

3. THE ASSESSMENT OF MONEY LAUNDERING RISK

Policy

It is the policy of this firm to identify and assess the money laundering and terrorist financing risks represented by the business we conduct so that we can mitigate that risk by applying appropriate levels of client due diligence.

Controls and Procedures

1. The firm shall assess the money laundering risk represented by our clients and the business conducted according to two levels:
   - the range normally dealt with by the firm, requiring the firm's normal level of client due diligence. **STANDARD RISK**
   - an exceptionally high level of requiring an enhanced level of client due diligence. **HIGH RISK.** In such cases only proceed with such matters upon approval from your Head of Department or the Anti Money Laundering Compliance Officer **AMLCO**
2. The firm shall identify and maintain lists of risk factors (including those required by the Regulations) relating to our clients, products or services, transactions, delivery channels and geographic areas of operation.
3. The firm shall assess the level of risk associated with these factors by analysing indicators including:
   - client characteristics (individual or corporate, status, location, occupation)
   - the purpose of accounts or engagements, levels of assets and transactions
   - regularity or duration of business relationships
   - Appendix 1 sets out Risk Indicators to consider on opening a file and on an ongoing basis as well as those relevant to the firm as a whole.
4. The firm shall update the risk assessment annually to ensure new and emerging risks are addressed, and new information supplied by our regulator is reflected.
5. The firm shall keep an up-to-date written record of all steps taken and shall provide the risk assessment, the information on which it was based, and any updated information to our supervisory authority on request.
6. The money laundering or terrorist financing risk represented by each client will be assessed:
   - during the new client acceptance process, before any work is undertaken
   - whenever the firm's process of ongoing monitoring indicates that a change, in the business or operating environment of an established client may represent a change in money laundering risk.
7. Assessment of client risk factors shall be carried out by the responsible **Head of Department in conjunction with the AMLCO and Risk Committee** who will determine appropriate due diligence measures in respect of each client based on:
   - the firm's business-wide risk assessment which also provides an explanation as to where we see the risks. **Appendix 2**
8. Client risk assessment shall be carried out by the person responsible for the matter by:
   - the firms business-wide risk assessment **Appendix 2**
   - assessment of the level of risk of client, clients personal bank accounts and services arising in any case. See **Appendix 3** Risk Matrix for Assessment of Clients and Services which sets out the area of risks to be considered and **Appendix 4** Risk Indicators which lists additional categories of risk to be considered.
9. A record must be made of the assessment of individual client relationships, confirming that the firm's business-wide risk assessment has been taken into account, and any other relevant factors considered.

4. ROLES AND RESPONSIBILITIES

The firm has an Anti Money Laundering Compliance Office AMLCO and an Anti Money Laundering Reporting Officer AMLRO. These roles are currently undertaken by Nick Johnson. Any changes will be notified to staff. The AMLCO will be a member of the Senior Management Team and will ensure compliance with the Regulations and this policy. The AMLRO has a duty to report suspicion of money laundering or terrorist financing to the National Crime Agency. It will be the responsibility of the AMLCO and the AMLRO to keep each other informed at all times on issues relevant to their roles and their performance. In addition the firm has Anti Money Laundering Officers AMLO whose duties are to support the AMLCO and AMLRO along with all members of staff in complying with the Regulations and this Policy.

5. THE VERIFICATION OF CLIENT'S IDENTITY

Policy

It is the policy of this firm to verify the identity of all clients, ensuring that procedures reflect client risk characteristics. It is the policy of this firm to check that clients are who they say they are and that we are able to act for them. In so far as this section 3 of the Policy does not deal with the category of client you are dealing with or you are unclear as to the category of client refer to Appendix 5 Identifying and Verifying Clients and your **Head of Department.**

Controls and Procedures

1. The identity of the client will be the responsibility of the person who has conduct of the matter or such other person authorised by the firm's AMLCO, who will ensure that staff so authorised receive appropriate training. Below we identify the main categories of clients and what verification is necessary depending upon the category of work. A full list of client types and the identification required is in **Appendix 5.**

Individuals

2. In all matters where the individual is a UK national resident in the UK, the client should be seen in person and or by video link were possible and identity checks will be conducted by Thirdfort or such other electronic verification the firm has authorised but where the client has a good reason and is unable to access such verification then by the examination of:
   - one original hard copy document containing a photograph confirming the individual's name, such as a passport or driving license
   - one original hard document confirming the individual's address, such as a utility bill this document is required even if the document confirming name also has the address.
   - copy bank statements for a maximum of 6 months and a minimum of 3 months where no concerns over the source of funds from where any purchase monies will be paid which shows the clients name and address and from which all financial transactions will be made.
   - up to date copy client bank statement (within 3 months old) into which proceeds of sale will be paid showing name and address of client.
3. In **all** matters where the **individual** is **not seen face to face or by video link and where verification by Thirdfort or such other electronic verification the firm has authorised is not available then** identity checks will be conducted by the examination of:
   Copies of documents in para 3 above which have been certified either by a solicitor, chartered accountant, notary, dentist, Councillor, or bank/ building society official.
4. In cases where a client cannot produce acceptable documents, the responsible **Head of Department** in consultation with the **AMLCO** will make a risk-based decision on accepting the documents available.
5. Where the individual is not a UK national, or not resident in the UK, or will not be seen in person by the member of staff carrying out the verification, the responsible **Head of Department** will make a risk-based decision on the means of verification to be accepted, following consultation with the **AMLCO**. However, the minimum requirement will be a passport of the clients nationality and proof of address. Where copies are provided, they will be certified by a notary or attorney registered in the clients local jurisdiction.

Beneficial Owner / Person of Significant Control

6. Where the client is not the beneficial owner or person of significant control, the person who has conduct of the matter will take the necessary steps to determine that **beneficial owner or person with significant control,** and take reasonable measures to verify the identity of such person according to this procedure. See **Stage 5 of Appendix 5** for further guidance. This situation will often apply when dealing with a limited company – see paragraph 8 below. Where the client is a body corporate or a Trust and the practice has exhausted all possible means of identifying the beneficial owner but has not succeeded or is not satisfied that an individual is a beneficial owner then the person who has conduct of the matter must take reasonable measures to identify and verify the identity of the senior person responsible for managing the body corporate or Trust as if an individual under these policies and record in writing all actions and difficulties encountered in doing so and only act where the **AMLCO** has given approval.

Private Limited Company

7. When the client is a private limited company, the person who has conduct of the matter will:
   Obtain and verify:
   - the name
   - the company number or other registration number
   - the address of the registered office and principal place of business.

   You must take reasonable measures to determine and verify:
   - the law to which it is subject and its constitution including Articles and Memorandum of Association so as to be satisfied the work and matter relate to business which is allowed under the Articles and Memorandum of Association.
   - the full names of the board of directors(or equivalent management body) and senior persons responsible for its operations.
   - any beneficial owner
   - the person with significant control
   - that the person providing instructions is authorised to do so
   - if the company is subject to any form of insolvency

   Sources for verifying corporate identification may include:
   - certificate of incorporation
   - details from the relevant company registry, confirming details of the company and of the director/s and their address
   - filed audited accounts
   - Where instructions are provided by a director who is not the person of significant control or the beneficial owner then he should be identified in accordance with these policies as if that person is an individual.
   - Arrange for any credit checks using such system the firm employs.

See Appendix 5 for guidance

8. When dealing with a **private limited company the person responsible will identify** the beneficial owner along with the person with significant control and carry out the necessary verification as required above for an **Individual.**
9. The **AMLCO** will prepare a format by way of a case management for use by the person responsible for the matter in requesting verification of identity and beneficial ownership information from relevant corporate entities and trustees, and a procedure for following up when requests are not met within the statutory period.
10. If all possible means of identifying the beneficial owner of a client entity have been exhausted without success, and recorded, the fee earner responsible for the matter will seek the approval of the **AMLCO**, to be given on a risk-sensitive basis, to treat as its beneficial owner the senior person responsible for managing the client entity are approved for the purposes of this policy. See para 7 above.

11. Where the client is a **listed company or a regulated firm**, the fee earner responsible for the matter will check that the client is appropriately registered, and that the person with whom the firm is dealing is properly authorised to act on the client's behalf, and will verify the identity of that person according to this procedure, in addition to that of the client entity. See **Appendix 5** as to additional obligations
12. In all cases assessed as presenting a higher money laundering risk, where enhanced client due diligence is required, the person responsible for the matter will consult with the **AMLCO** to decide on additional steps to verify the client's identity.
13. All verification of identity processes as well as actions taken to verify the identity of individuals and corporate entities will be recorded. This will include keeping photocopies of documents produced or in exceptional cases with the approval of the **AMLCO**, recording information about where copies are held and can be obtained.
14. Where there is any uncertainty over the nature identity of the client and the verification required then the matter must be referred to your Head of Department and or **AMLCO.**

6. KNOWING THE CLIENTS BUSINESS AS PART OF CLIENT DUE DILIGENCE (CDD)

Policy

It is the policy of this firm to obtain information enabling us to assess the purpose and intended nature, of every client's relationship with the firm. **This Know Your Client's Business** information will enable us to maintain our assessment of the on-going money laundering risk, and notice changes or anomalies in the client's arrangements that could indicate money laundering.
It is the policy of this firm not to offer its services, or to withdraw from providing its services, if a satisfactory understanding of the nature and purpose of the client's business with us cannot be achieved.

Controls and Procedures

1. The person who has conduct of the file will obtain Know Your Client's Business information from clients:
    - on acceptance of a new client
    - on receipt of a new instruction from a client whose arrangements are of a one-off nature
    - on any significant change in the client's arrangements such as the size or frequency of transactions, nature of business conducted, involvement of new parties or jurisdictions
    - as an ongoing exercise throughout the client relationship.

2. Know Your Client's Business information sought from clients will include, but not be limited to:
    - the client's reason for choosing this firm
    - the purpose and business justification behind the services the client is asking the firm to provide
    - the provenance of funds, introduced or assets involved in the client's arrangements.
    - understanding source of funds in any transaction and obtain bank statements as required for individuals as provided by this policy when verifying there identity and in relation to companies where you have concerns that the company would not under normal circumstances have the ability to fund such a transaction. Bank statements for 6 months showing source of funds will be required. In understanding source of funds careful consideration must be given to limits on currency exchange and in particular and not limited to monies from China for which Law Society guidance must be followed.
    - ascertain any wealth or monies from crypto currency which will not be accepted in any transaction
    - the nature, size, frequency, source and destination of anticipated transactions
    - the business justification for all uses of structures and entities
    - the counter-parties and jurisdictions concerned.
3. The information will be obtained by asking the client pertinent questions, and the answers given by the client will be verified where this is possible within the normal conduct of the relationship.
4. Information provided by the client will be recorded on the client file, to assist with future monitoring of the client relationship.
5. Answers not readily verifiable should nevertheless be considered together with other details known about or given by the client to check that all the information is consistent and plausible.
6. Where answers given by the client are implausible, or inconsistent with other information, or where the client is unwilling to provide satisfactory answers, to due diligence enquiries, the matter will be referred to the **Head of Department** who will consider whether the firm should withdraw from the relationship following consultation with the **AMLCO.**
7. Know Your Client's Business information, or the lack of it, will be taken into account by all staff when considering possible grounds to suspect money laundering.

7. PROCEDURE FOR ONGOING MONITORING OF CLIENTS' ACTIVITIES

Policy

It is the policy of this firm to monitor clients' instructions and transactions to ensure consistency with those anticipated and with the client risk profile. Instructions and transactions will be monitored to ensure that possible grounds to suspect money laundering will be noticed and scrutinised, and changes requiring a re-assessment of money laundering risk will be acted upon.

Controls and Procedures

1. All staff will maintain alertness for clients' instructions and transactions which, represent a significant divergence from those anticipated for the client.
2. The firm shall employ a suitable mechanism for monitoring clients' transactions, according to their number and the involvement or otherwise of members of staff in their execution. If an automated transaction monitoring system is used, it shall have been risk-assessed prior to use.
3. Where a client's instruction or transaction is not consistent with what is anticipated or such instructions change
    - an explanation will be sought, if appropriate by contacting the client
    - the involvement of unexpected jurisdictions or organisations will be checked with the firm's MLRO for possible alerts or sanctions
    - if a satisfactory explanation is found, the client file will be updated to record that explanation and to reflect the change in anticipated client activities
    - if no satisfactory explanation is found, the mater will be brought to the attention, of the responsible **AMLCO** who will consider whether there are grounds to suspect money laundering
    - the responsible **AMLCO** will consider whether there is cause to carry out a reassessment of money laundering risk, and if so to carry this out.
4. The **AMLCO** will supplement the training provided to members of staff involved by giving guidance on the ways in which client instructions and transactions may 'represent a significant divergence from those anticipated' and so should be brought to their attention.
5. Irrespective of whether specific incidents have caused a re-assessment of money laundering risk, every client file will be reviewed periodically to check that:
    - the information held is still adequate, correct and up to date
    - the level of client due diligence being applied is still appropriate.
6. Periodic review of client files including the clients identity and information concerning knowing your client will be conducted at the following intervals:
    - for high-risk clients — every six months
    - for all other clients — annually.

Periodic review of client files for AML due diligence purposes can be conducted at the same time as business development reviews, but the AML review must be separately noted on the file.

8. POLICY AND PROCEDURE FOR INTERNAL SUSPICION REPORTING

Policy

It is the policy of this firm that every member of staff shall remain alert for the possibility of money laundering, and shall report any and every suspicion for which they believe there are reasonable grounds, following the firm's procedure.
The expectation placed on each individual member of staff in responding to possible suspicions shall be appropriate to their position in the firm. No-one is expected to have a greater knowledge and understanding of clients' affairs than is appropriate to their role.

Controls and Procedures

1. Every member of staff must be alert for the possibility that the firm's services could be used for money laundering purposes, or that in the course of their work they could become aware of criminal or terrorist property.
2. Alertness to the possibility of money laundering must be combined with an appropriate understanding of clients' normal arrangements so that members of staff become aware of abnormal factors which may represent possible causes of suspicion.
3. A member of staff becoming aware of a possible suspicion shall gather relevant information that is routinely available to them and decide whether there are reasonable grounds to suspect money laundering. Any additional CDD information acquired, in particular any explanations for unusual instructions or transactions, should be recorded on the client file in the routine manner, but no mention of suspected money laundering is to be recorded in any client file.
4. The requirement to gather relevant information does not extend to undertaking research or investigation, beyond using information sources readily available within the firm. Clients may be asked for relevant information, but only in the context of routine client contact relevant to the business in hand.
5. If after gathering and considering routinely available information, the member of staff is entirely satisfied that reasonable grounds for suspicion are not present, no further action should be taken.
6. A member of staff who on consideration decides that there may be grounds for suspicion shall in normal circumstances raise the matter with the responsible **Head of Department**. If after discussion they both agree that there are no grounds for suspicion, no further action should be taken.
7. If a member of staff feels unable to discuss a suspicion of money laundering with the responsible **Head of Department** they must contact the **AMLRO** directly.

8. If following the raising of a possible suspicion by a member of staff, or resulting from their own observations, the responsible **Head of Department** decides that there are reasonable grounds to suspect money laundering, he or she must submit a suspicion report to the **AMLRO**, in the format specified by the AMLRO for that purpose. **Appendix 6.**
9. An internal suspicion report does not breach **client confidentiality/ professional privilege**, and no member of staff shall fail to make an internal report on those grounds.
10. If a suspicion report results from a matter raised by a member of support staff, the responsible **Head of Department** must advise them in writing that a report has been submitted by reference to the matter discussed on the given date, without including the name of the person(s) suspected. This confirms to the member of staff who raised the matter that their legal obligation to report has been fulfilled.
11. In the circumstance where any member of staff forms a suspicion of money laundering but the responsible **Head of Department** does not agree that there are reasonable grounds for suspicion, the member of staff forming the suspicion must fulfil their legal obligation by submitting a money laundering suspicion report to the **AMLRO**, in the format specified by the **AMLRO** for that purpose. The responsible **Head of Department** must recognise this legal requirement and assist the staff member in fulfilling it.
12. A member of staff who forms or is aware of a suspicion of money laundering shall not discuss it with any outside party, or any other member of staff unless directly involved in the matter causing suspicion.
13. No member of staff shall at any time disclose a money laundering suspicion to the person suspected, whether or not a client, or to any outside party. If circumstances arise that may cause difficulties with client contact, the member of staff must seek and follow the instructions of the **AMLRO**.
14. No copies or records of money laundering suspicion reports are to be made, except by the **AMLRO** who will keep such records secure, and separate from the firm's client files and other repositories of information.

9. PROCEDURE FOR FORMAL DISCLOSURES TO THE AUTHORITIES

Policy

It is the policy of this firm that the Anti Money Laundering Reporting Officer (or if absent, the deputy **AMLRO**) shall receive and evaluate internal suspicion reports, and decide whether a formal disclosure is to be made to the authorities. If so deciding, the **AMLRO** will make the formal disclosure on behalf of the firm, using the appropriate mechanism.

Controls and Procedures

1. On receipt of a money laundering suspicion report from a member of staff, the **AMLRO** shall acknowledge its receipt in writing, referring to the report by its date and unique file number, without including the name of the person(s) suspected. This confirms to the member of staff that their legal obligation to report has been fulfilled. **Appendix 7**
2. The **AMLRO** shall open and maintain a log of the progress of the report. This log shall be held securely and shall not form part of the client file.
3. Following receipt of a report, the **AMLRO** shall gather all relevant information held within the firm, and make all appropriate enquiries of members of staff anywhere in the firm, in order properly to evaluate the report. The **AMLRO** shall then decide whether they personally believe there are reasonable grounds for suspicion and make a decision on the firm's obligation to make a formal disclosure to the authorities.
4. All members of staff, anywhere in the firm, shall respond in full to all enquiries made by the **AMLRO** for the purposes of evaluating a suspicion report. Information provided to the **AMLRO** in response to such enquiries does not breach client confidentiality/professional privilege, and no member of staff shall withhold information on those grounds.
5. If deciding that a formal disclosure to the authorities is required, the **AMLRO** shall make such disclosure by the appropriate means.
6. The **AMLRO** shall document in the report log the reasons for deciding to make or not to make a formal disclosure.
7. The **AMLRO** shall where appropriate inform the originator of the internal report whether or not a formal disclosure has been made.
8. The **AMLRO** shall inform all those, and only those, members of staff who need to be aware of the suspicion in order to protect them and the firm from possible money laundering offences in connection with any related business.
9. Following a formal disclosure, the **AMLRO** shall take such actions as required by the authorities in connection with the disclosure.

10. PROCEDURE FOR STOPPING / CONTINUING WORK FOLLOWING A SUSPICION REPORT

Policy

It is the policy of this firm that from the moment a suspicion of money laundering arises, no further work will be carried out on the matter that gave rise to the suspicion. Neither commercial considerations nor the difficulty in responding to the client's enquiries on the matter shall be permitted to take precedence over the firm's legal obligations in this regard.

In such circumstances the **AMLRO** shall act with all possible speed to enable work to continue, or if appropriate to withdraw from the client relationship, and assist staff in any communications with the client affected.

Controls and Procedures

1. As soon as a member of staff forms or becomes aware of a suspicion of money laundering, no further work is to be done on the matter giving rise to suspicion.
2. If there is any likelihood of the client becoming aware that work has stopped, for example because an anticipated transaction has not gone through, the member of staff concerned must contact the **AMLRO** for instructions on how to handle the matter with the client.
3. On receipt of a suspicion report, the **AMLRO** shall:
    - instruct the originator of the report and any other staff involved to cease work on the matter giving rise to suspicion
    - decide in the shortest possible time whether all work for the client concerned should be stopped, or whether other work that is not the cause of suspicion may continue, and advise relevant staff accordingly
    - assist all affected staff in handling the matter with the client so that no tipping-off offence is committed.
4. When work for a client has been stopped, the AMLRO shall carry out the evaluation of the suspicion report as quickly as possible to decide whether a disclosure must be made to the authorities.
5. If the **AMLRO** decides that there are not reasonable grounds to suspect money laundering, he or she will give consent for work to continue on his or her own authority.
6. If the **AMLRO** decides that a disclosure must be made, he or she will request consent to continue from the NCA as quickly as possible.
7. On giving consent to continue, either on his or her own authority or on receipt of notice of a defence or implied consent from the NCA, the AMLRO will confirm this in writing to affected staff.
8. If consent is refused by the NCA, or delayed by an extension of the moratorium period, the **AMLRO** will take advice from the NCA and consult with the responsible **Head of Department** and **AMLCO** on the firm's continuation of or withdrawal from the client relationship.

11. PROCEDURE FOR THE MONITORING AND MANAGEMENT OF COMPLIANCE

Policy

It is the policy of this firm to monitor our compliance with legal and regulatory AML requirements and conduct an annual independent AML compliance audit, the findings of which are to be reported to the firm's **Senior Management Team** together with appropriate recommendations for action. The firm's **Partners** shall provide the necessary authority and resources for the ongoing implementation of a compliant AML regime.

Controls and Procedures

1. The **AMLRO** will monitor continuously all aspects of the firm's AML policies and procedures, together with changes and developments in the legal and regulatory environment which might impact the firm's business-wide risk assessment,
2. Any deficiencies in AML compliance requiring urgent rectification will be dealt with immediately by the **AMLCO**, who will report such incidents to the relevant Partners when appropriate and request any support that may be required.
3. The **AMLCO** will facilitate and assist any independent auditor in conducting an annual audit of the firm's AML compliance. Findings will be reported to the firm's **Partners**.
   This report will include.
   - a summary of the firm's money laundering risk profile and vulnerabilities, together with information on ways in which these are changing and evolving
   - a summary of any changes in the regulatory environment(s) in which the firm operates and the ways in which the firm is affected
   - a summary of AML activities within the firm, including the number of internal suspicion reports received by the **AMLCO** and the number of disclosures made to the authorities
   - details of any compliance deficiencies on which action has already been taken, together with reports of the outcomes
   - details of any compliance deficiencies on which action needs to be taken, together with recommended actions and management support required
   - an outline of plans for the continuous development of the AML regime, including ongoing training and awareness raising activities for all relevant staff.
4. Where management action is indicated, the responsible **Partner** will respond to the report with details of appropriate action to be taken

12. PROCEDURE FOR AML TRAINING

Policy

It is the policy of this firm that recruitment of all new staff will include assessment as described in section 21(2) of the Money Laundering Regulations. Screening will take place prior to appointment and at regular intervals during the appointment of all staff.
It is the policy of this firm that all staff who have client contact, or access to information about clients' affairs, shall receive anti-money laundering training to ensure that their knowledge and understanding is at an appropriate level, and ongoing training at least annually to maintain awareness and ensure that the firm's legal obligations are met.
It is the policy of this firm that all staff who have client contact, or access to personal data relating to clients, shall receive training on the law relating to data protection to ensure that their knowledge and understanding is at an appropriate level, and ongoing training at least annually to maintain awareness and ensure that the firm's legal obligations are met.
The **AMLCO** shall, in co-operation with the firm's training officer and data protection officer, ensure that training is made available to staff according to their exposure to money laundering and data protection risk, and that steps are taken to check and record that training has been undertaken and that staff have achieved an appropriate level of knowledge and understanding.
In the light of the seriousness of the obligations placed on each individual by the Law and the Regulations, and the possible penalties, the **AMLCO** shall ensure that information about these personal obligations is available to all members of staff at all times.

Controls and Procedures

1. Post appointment, staff assessment according to section 21(2) of the Money Laundering Regulations will be incorporated into the firm's regular staff appraisal process.
2. The **AMLCO** will, in co-operation with the firm's training officer, evaluate alternative AML training methods, products and services in order to make suitable training activities available to all members of staff who have client contact, or access to information about clients' affairs.
3. Suitable training will take into account:
    - the need to achieve a level of knowledge and understanding appropriate to the individual's role in the firm
    - the need to maintain that level through ongoing refresher training
    - the practicality of assigning different programmes to staff with different roles on a risk-sensitive basis
    - the cost and time-effectiveness of the alternative methods and media available.
4. The training programme will include means of confirming that each individual has achieved an appropriate level of knowledge and understanding, whether though formal testing, assessment via informal discussion, or other means.

5. Special consideration will be given to the training needs of senior management, and of the compliance team.
6. The AMLCO will:
    - inform every member of staff of the training program that they are required to undertake, and the timetable for completion
    - check that every member of staff has completed the training program assigned to them, issuing reminders to any who have not completed to timetable
    - refer to the appropriate Partners any cases where members of staff fail to respond to reminders and have not completed their assigned training
    - keep records of training completed, including the results of tests or other evaluations demonstrating that each individual has achieved an appropriate level of competence.
7. On completion of a training cycle, the **AMLCO** will ensure the continuity of ongoing training while giving consideration to:
    - the effectiveness of the program completed
    - the need to keep training information up to date with change in laws, regulations, guidance and practice.
8. The **AMLCO** will determine the training needs of his or her own role and ensure that he or she obtains appropriate knowledge and understanding as required to fulfil the obligations of the appointment.

APPENDIX 1

RISK FACTORS

Product and Service

A large amount of solicitors' money laundering risk depends on the services, or combination of services they offer. The 2017 national risk assessment identifies the following as posing the highest risk of being used for money laundering:

- trust and company formation
- conveyancing
- corporate transactions
- client account service

What	Why
Conveying	Property is an attractive asset for criminals because of the large amounts of money that can be laundered through a single transaction, and the fact that property will tend to appreciate, or can be used to generate rental income. Approximately half of the suspicious activity reports (SARs) made by the legal sector relate to property transactions, indicating that this is a common way for criminals to seek to launder money.
Client accounts	Solicitors are held in a position of trust, and their client account can be viewed as a way of making criminal funds appear to have a genuine source. Criminals target client accounts as a way of moving money from one individual to another through a legitimate third party under the guise of a legal transaction without attracting the attention of law enforcement agencies. You must never allow your client account to be used as a banking facility, or to pass funds through it without a legitimate underlying legal transaction. We should be aware of any attempt to pay funds into a client account without a genuine reason, or to get a refund of funds from a client account (particularly to a different account from which the original funds were paid). It is a good idea not to make the details of your client account visible (for example through including them in engagement letters) and to provide them only upon request once client due diligence has been completed.

What	Why
Creating or managing trusts and companies	Trusts or corporate structures which facilitate anonymity can help disguise the source or destination of money or assets. Law enforcement have flagged that many investigations of money laundering lead to opaque corporate structures, used to hide the beneficial owner of assets.
Corporate Transactions	As they involve significant amounts of money that can be placed, layered or integrated by the transaction and the entity involved can be used for ongoing money laundering careful consideration over source of funds and the purpose of the transaction is required.

Based on our supervisory work and analysis, we agree that these services pose the highest risk.

Client risk

Each client is different, and each will have their own particular risk-profile. There are a number of different factors that increase the risk of money laundering presented by clients. Warning signs include clients that appear to want anonymity, clients acting outside their usual pattern of transactions, clients whose identity is difficult to verify or who are evasive about providing ID documents. The risk posed by your client also extends to the risk posed the beneficial owner, if applicable.

What	Why
Politically exposed persons (PEPs)	The 2017 Money Laundering Regulations updated the definition on PEPs so that individuals from the UK are now included, whereas previously the definition was restricted to overseas individuals. Generally speaking, PEPs have access to public funds and the money laundering regulations require PEPs and their close families and associates to be identified and require extra checks to mitigate the risks of corruption. The money laundering regulations require firms to be able to identify PEPs and associates, and to undertake enhanced due diligence on them.

What	Why
Customers	The nature of the customer's business might increase risk if it is cash-intensive and therefore presents a greater risk of disguising illegal funds within legitimate payments. The customers' sector or area of work is also a significant risk factor, in particular if they are associated with those with a higher risk of corruption or being used for money laundering, for example those from the arms trade or casinos. Consider if the client is acting outside their usual pattern of business. Dealing with customers you are familiar with can cause complacency when assessing risk and compliance with the Regulations. Always deal with clients in a consistent manor irrespective of familiarity.
Clients seeking anonymity or who cannot prove their identity	Clients who are seeking anonymity on behalf of themselves, a third party or beneficial owner may be seeking to launder money. In some circumstances it might be natural that a client cannot produce identification documents, for example elderly people or illegal immigrants. Clients who are evasive about proving their identity or who produce non-standard documentation might be considered higher risk, if there is no good explanation for this.

Transaction Risk

There are a number of factors that might make an individual transaction higher risk. Much of identifying risk is being alert for unusual activity or requests that don't make commercial sense. The use of cash, either as part of a transaction or for payment of fees is inherently higher risk, and it is a good idea to have a policy on what amount of cash you will accept, and in what circumstances.

What	Why
Size and value of the transaction	Money launderers incur a risk with each transaction, and so criminals may seek large or high value transactions to launder as much money as possible in one go. If there is no good explanation for an unusually large transaction, or a client is seeking to make a number of linked transactions or no context for such transaction then this presents a higher risk.

What	Why
Payment type	Cash and some electronic currencies can facilitate anonymity and enable money laundering. There may be legitimate reasons that a client wants to pay in cash, however this must be considered higher risk because it has not passed through the banking system and is often untraceable. Payment will not be accepted by crypto currency or where the monies have arisen from dealings in crypto currency for which purpose bank statements for 6 months need to be obtained so we are satisfied payment is not originating from such funds. Crypto currency and assets arise from dealings involving anonymity, unregulated exchanges as well as attracting funds from criminals due to poor transparency.
Transactions that don't fit with our or client's normal pattern	We will know what our specialisms are and what services they normally provide. In addition, initial client due diligence should include gathering some information on the expected ongoing client relationship. If a new or existing client is requesting transactions or services that you wouldn't normally expect us to offer, you might consider this suspicious if there is no obvious reason for the request. Similarly, if a client is requesting services which are not in line with our original customer due diligence or are out of their normal pattern of transactions, without a good reason, you should consider whether this constitutes suspicious behaviour. We would expect you to have a reasonably good knowledge of the types of services clients will use and to be alert for requests that don't fit the normal pattern.
Transactions or products that facilitate anonymity	Accurate and up-to-date information on beneficial owners is a key factor in preventing financial crime and tracing criminals who try to hide their identity behind corporate structures. Increased transparency reduces the risk of money laundering. We should be alert to customers seeking products or transactions that would facilitate anonymity and allow beneficial owners to remain hidden without a reasonable explanation.
New products, delivery mechanisms or technologies	The changing nature of money laundering means that criminals are always seeking new ways to launder funds as old ways become too risky and loopholes are closed. Moving into a new business area or providing a new delivery channel for services means our firm may come across new or previously unidentified risks. In moving into a new area, we will not necessarily have a previous pattern of transactions with which to compare new behaviour that might be suspicious. Criminals might target us moving into new areas, because of the perception that AML policies and procedures are new and untested. Criminals might seek to target loopholes in new technology before they are identified and closed.

What	Why
Complex transactions	Criminals can use complexity as a way of obscuring the source of funds or their ownership. We should make sure that they fully understand the purpose and nature of a transaction they are being asked to undertake. You should make further enquiries or seek expertise if unsure. Simply proceeding with the transaction as asked without understanding the purpose and details increases the risk of money laundering

Delivery Channel Risk

The way in which you deliver our services can increase or reduce risk to the business. Transparency tends to reduce risk and complexity tends to increase it.

What	Why
Remote Clients	Not meeting a client increases the risk of identity fraud and may help facilitate anonymity. Not meeting a client face-to-face may make sense in the context of the transaction, but clients who appear evasive about meeting in person might be cause for concern. The risk posed by remote clients can be somewhat mitigated by the use of safeguards such as electronic signatures.
Combining services	Some services might not be inherently high risk, but when combined with other services or transactions become risky. For example, there might be legitimate reasons for setting up a company, but if that company is used to purchase property and disguise its beneficial owner, this increases the risk of money laundering. Clients may take steps to hide the combination of services they are using, for example through enquiring about, and taking advantage of Chinese walls (or information barriers), through using separate firms, or through allowing a significant amount of time to pass between transactions so they appear unlinked.
Payments to or from third parties	Money launderers can seek to disguise the source of funds by having payments made by associates or third parties or have payments made to third parties. This is a way of disguising assets and you should make sure you always identify the source of funds and source of wealth. A payment to or from a third party is particularly suspicious if it is unexpected, or claimed that it was made in error with a request for the money to be refunded. There may be some legitimate reasons for third party payments, for example parents gifting a house deposit to their child. You should ensure you do appropriate due diligence on the source of funds and wealth and the reason behind the payment before accepting funds.

Geographical Risk

When assessing geographical risk, you should consider the jurisdiction in which services will be delivered, the location of the client, and that of any beneficial owners as well as the source and destination of funds. In some jurisdictions the sources of money laundering are more common, for example the production of drugs, drugs trafficking, terrorism, corruption, people trafficking or illegal arms dealing. Countries with anti-money laundering and counterterrorist financing regimes which are equivalent to the UK may be considered lower risk.

What	Why
Countries that do not have equivalent AML standards to the UK	The money laundering regulations require us to put in place **enhanced due diligence** measures in dealing with countries that have not implemented FATF recommendations, identified by credible sources such as FATF, the International Monetary Fund or World Bank. The Financial Action Taskforce (FATF) maintains the list of high risk jurisdictions. As a firm we will only act for clients based in high risk jurisdictions in exceptional circumstances where regard will be taken to the nature of the instructions and after enhanced due diligence
Countries with significant levels of corruption	The money laundering regulations require us to put in place enhanced due diligence measures in dealing with countries with significant levels of corruption or other criminal activity, such as terrorism. Transparency International also produces the annual corruption index.
Countries with organisations subject to sanctions	The money laundering regulations require the UK to put in place enhanced due diligence measures in dealing with countries subject to sanctions, embargos or similar measures. In the UK, the Office of Financial Sanctions Implementation maintains a list of all those subject to financial sanctions. You can also subscribe to an email altering you to any changes.

APPENDIX 2

BUSINESS - WIDE RISK MATRIX

Risk Factor	Never 1	Rarely 2	Commonly 3	Risk Level
1			3	3
2			3	3
3	1			1
4		2		2
5			3	3
6	1			1
7	1			1
8			3	3
9		2		2
10	1			1
11	1			1
12		2		2
13	1			1
14	1			1
Total				25 / 42 Medium Risk

Low Risk: 1 - 13 Medium Risk: 14 -27 High Risk: 28 - 42

Risk factors

1. Hold client money
2. Clients who do not provide repeat business
3. Clients who are resident in geographical areas considered as high risk
4. Acting for a client company that have nominee shareholders
5. Acting for client who is a legal person whose main purpose is for holding personal assets.
6. Acting for clients where we are unable to ascertain the beneficial owner
7. Dealing with clients who we do not see without safeguards such as checking ID
8. Acting in complex financial/property transactions
9. Providing services for nominee directors, nominee shareholder, shadow directors
10. Formation of companies in foreign jurisdictions

11. Accepting cash
12. Do we knowingly act for clients with criminal convictions, bankruptcy, disqualified directors
13. Not being satisfied over source of funds
14. Acting for clients who live in countries not implementing ML/TF which are consistent with FATF recommendations

A risk based assessment of our practice

When undertaking a risk assessment of this practice we used the above client due diligence risk assessment table and the data.

We are aware that rural practices have been targeted by organised crime as many city-based firms have employed their own client vetting staff.

There have been incidents of fraudsters setting up 'dummy solicitors practices' or 'dummy branch offices' of real firms to enable fraud in property transactions. As such your due diligence should extend to checking the SRA website if you are dealing with a new firm or a new branch of an existing practice.

We are a practice that has a focus on the SME market and have distinct departments covering most areas of the law.

Over the years terrorism has sprung up from many areas of the globe and of course within Great Britain we don't have to look further than Northern Ireland! Undoubtedly at this time, with the troubles in Afghanistan and Iraq this country is still at great risk of further terrorist action. We also take into account the restrictions and sanctions against certain Russian nationals arising from the war between Russia and the Ukraine. We as a practice must have a potentially higher risk of being subject to attempts to money launder in the pursuit of funding terrorism, given the known current terrorist organisations and the high propensity of first and second generation ethnic minority clients from the Indian sub-continent.

An overview of the risks associated to each department:-

Residential Property

The sale and purchase of property has proved to be the easiest method for laundering / hiding money raised as a result of, tax evasion, benefit fraud, organised criminal activities and or funding for terrorist purposes. Problems can also arise from attempts of receiving monies from third parties and clients using crypto currency. Does the client have the financial standing to justify the transaction? There is an emphasis on checking on source of funds. It has also proved to be a vehicle for attempts to defraud mortgage lenders. It is not surprising therefore that this department has made more disclosures than any other to date.

Current risks can arise from purchase monies being sourced from China in breach of exchange rates and where guidance from the Law Society must be considered.

Arrangements for co-ownership may need registering with the Trust Registration Service TRS if the legal owners are not the only beneficial owners: for example where two people are registered as legal owners at the Land Registry but the beneficial interest is owned by three people or other entities.

When entering into a new business relationship we need to carefully consider where the legal ownership is different from the beneficial ownership and obtain proof of registration from the TRS and deal with the rectification or reporting of any discrepancy as outlined in detail in Appendix 6 and the part on Trustees.
The majority of work we do is **standard** risk but as a business we can be exposed to **high** risk.

Commercial Property

There are similar risks to that of the residential department, but more likely in the setting up of new businesses using the proceeds of crime or purchasing / leasing premises for organised crime activity etc. Be aware of payments to third parties.
We also need to be aware of how we deal with asbestos and the obtaining of any report. There is a risk in failing to provide a copy EPC to an enforcement officer, failure to carry out assessment and failure to carry out an enforcement notice can give rise to a criminal offence and so any proceeds of sale could be considered proceeds of crime arising from this offence.
The majority of work we do is **standard** risk but as a business we can be exposed to **high** risk.

Company / Commercial

Risks relate to the buying and selling of companies and concerns over the source of funds or where we do not have clarity over the beneficial owners. Issues can arise when dealing with complex legal structures.
The majority of work we do is **standard** risk but as a business we can be exposed to **high** risk.

Probate / Trusts

Concerns are dealing with monies and beneficiaries and establishing Trusts. Are they who they say they are. This also applies to wills. The main risk relates to the proper distribution of monies. Being satisfied we can identify the Trustees and beneficiaries along with the source of funds.
The majority of work we do is **standard** risk but as a business we can be exposed to **high** risk.

RTA / PI

Apart from fraudulent claims this department has the lowest risk profile as no monetary transactions are necessary on behalf of the client and any damages come direct from insurers.
This work is **standard** risk.

Commercial Litigation

This is considered low risk, not involving transactions. Issues may arise when we are aware the principle in question involves criminal acts.
This work is **standard** risk.

Costings

We act mainly for solicitors and remain a **standard** risk.

Employment

Thus is not transaction work and where we predominately work for SME businesses on a repeat basis and so the level of risk is **standard**.

APPENDIX 3

CLIENT AND MATTER RISK ASSESSMENT

The firm will use the following procedure for assessing the Client and Matter Risk in conjunction with the verification required at section 5 of this Policy.

Matter Summary and Consideration/Value (where relevant):

Source of funds (where relevant):

Source of work (eg referral/recommendation/existing client)

Client Risk Level: ☐ Standard ☐ High

Matter Risk Level: ☐ Standard ☐ High

Please consider and state reasons for rating **[Please note: any High Risk requires EDD and AMLCO approval]:**

Client Risk - Do any of the following apply? ☐ Yes ☐ No

It is unusual for this type of client to instruct us.
We have concerns about the client. e.g. politically exposed person, capacity, undue influence, vulnerability
A third party is instructing but we do not have evidence of their authority to act.
We have concerns about this client, agent or third parties.
The client is a designated person/entity.
The ultimate beneficial owners/shareholders/controllers are unknown **[Please note: if this is the case we can only proceed with AMLCO approval]**

If Yes, details:

Jurisdiction - Do any of the following apply? ☐ Yes ☐ No

We have concerns about the client's location and/or concerns with the client instructing us from this location.
The matter involves overseas elements. If yes, provide details below. e.g. overseas beneficiary, contracts for overseas entities

If Yes, details:

Please confirm the following:	☐ Yes	☐ No
All necessary steps have been taken to identify all beneficial owners / shareholders / controllers.		
Where you have not met the client in person, all necessary steps been taken to verify the client's identity.		
You are not aware of any adverse media about the client or beneficial owners.		
Where relevant, you have checked the register of overseas entities.		

If No, details:

Matter Risk – Do any of the following apply?	☐ Yes	☐ No
We do not usually carry out this type of work.		
The matter involves creating a complex or unusual structure or an unusual pattern of transactions **[Please note: AMLCO approval is required in such cases]**		
The matter lacks apparent economic or legal purpose. **[Please note: AMLCO approval is required in such cases]**		
The matter involves a cash-intensive industry or business which attracts cash or criminal activity (e.g. gambling) linked to the client or other related party. **[Please note: if this is the case then AMLCO approval is required]**		
The matter involves a high-risk industry or sector.		
The matter involves a risk of proliferation financing.		
The matter involves a client or related party established in a high-risk country/ jurisdiction **[Please note: if this is the case we cannot proceed]**		
The matter involves a client or related party who is a politically exposed person (PEP) or family member or close associate of a PEP. **[Please note: if this is the case we can only proceed with AMLCO approval]**		

There are other AML or Counter Terrorist Financing risks.
We have not checked the source of funds for this transaction.
The matter involves an entity subject to sanctions **[Please note: AMLCO approval is required in such cases]** or a country subject to sanctions. **[Please note: if this is the case we cannot proceed.**
We are receiving funds from overseas.
We are receiving funds from third parties (other than banks).
The matter will be funded by digital assets? E.g. Crypto **[Please note: if this is the case then we cannot proceed]**
The transaction is not consistent with our understanding of the client's profile and financial position? e.g. it does not make sense for the client to instruct us on this transaction.

If Yes, details (including any enhanced due diligence carried out to mitigate any risks identified and whether the firm's **AMLCO** has confirmed approval to proceed):

Fee Earner:	
Date:	
Partner:	
Date:	
AMLCO (where relevant):	
Date:	

APPENDIX 4

ADDITIONAL RISK INDICATORS FOR FLAGGING TRANSACTIONS

1. Personal Bank Accounts

1. Turnover substantially in excess of the client's known earnings
2. Cash transactions of a size or frequency inappropriate for the client's expected earnings and expenditure
3. Expenditure patterns which are inconsistent with the client's level of income
4. Cash deposited using numerous paying-in slips so that each individual deposit is unremarkable but the total of all deposits is significant (often known as 'structuring')
5. Transactions relating to the same account conducted simultaneously or in quick succession at different counters or branches
6. A large payment into the account quickly mirrored by an equally large payment out of the account
7. Several payments into the account quickly mirrored by a large payment out which is the total of those deposits
8. Money withdrawn very shortly after deposit, unless there is an obvious reason
9. Failure to take advantage of normal banking facilities, such as accounts earning higher interest — especially if these are offered and then refused without an obvious reason
10. Willingness to accept high charges, fees and penalties without trying to minimise them
11. Multiple account opening and closing by related clients
12. Transactions between accounts held by the same client at different organisations in the same area
13. Deposits made into the same account by several different individuals or from crypto
14. Unexplained transactions between related accounts (often known as 'cross-firing')
15. Use of offshore accounts by clients whose commercial or financial circumstances do not justify such facilities
16. Transactions involving jurisdictions with which the client has had no prior relationship
17. Transactions involving jurisdictions which are sanctioned or represent a high money laundering or terrorist financing risk
18. Transactions involving services the client has never used before, particularly if those services seem inappropriate for that client
19. Any transaction in which the counterparty to the transaction is unknown
20. Transactions through an account which has been inactive or dormant
21. Conversion of large amounts of lower denomination currency into larger denomination notes
22. Conversion of large amounts of foreign currencies into a single currency (particularly one with high denomination notes)

2. Bank Accounts

1. Transactions which are outside the normal range of services used by the client
2. Business accounts used for only a short period of time
3. New business ventures terminated early — particularly where funds earmarked for the venture are diverted elsewhere
4. Building up of large balances, inconsistent with the known turnover of the client's business, and subsequent transfer to other accounts
5. Unnecessary use of intermediaries for the purpose of routing money through third-party bank accounts
6. Over-depositing of high-value assets as collateral for relatively straightforward commercial or legal services
7. Requests for offshore fiduciary/corporate/banking services for 'tax purposes' by clients whose circumstances do not indicate such a need
8. Requests to maintain a number of trustee or client accounts which do not appear consistent with the type of business
9. Transactions involving nominee (names) accounts
10. Transactions representing a marked change (upwards or downwards) in performance without an apparent change in market conditions
11. Unexpectedly large payments for intangible supplies (such as fees for consultants or advisers), particularly where the supplier is offshore
12. Unexplained wire transfers on an in-and-out basis, particularly to and from high-risk jurisdictions along with crypto currency
13. Receipts of investments funds that cannot be justified by the client's business performance or prospects, especially from unconnected third parties and offshore entities

2. Property Transactions

1. Ownership or purchase of property interests by entities where the true beneficial ownership cannot be established
2. Transactions in which you cannot establish with any degree of conviction how the funds were originally earned or acquired

Risk indicators that are specific to the property sector

3. Property sales at significantly above or below market value
4. Buyers showing unusually little interest in the details, condition etc. of the property they are buying
5. Buyers who appear to be following instructions from someone else and not actually buying the property for themselves
6. Rapid resale of properties without profit or any other convincing explanation
7. Resale of properties after renovations completed without known source of funding

8. Offers of mortgages where the loan amount seems excessive in relation to what you know of the financial standing of the borrower
9. Early redemption of mortgages without convincing explanation, especially where penalties are incurred
10. Requests to accept cash when making any payment or deposit into the firm's client account

APPENDIX 5

IDENTIFYING AND VERIFYING THE CLIENT AND BENEFICIAL OWNER

Client Due Diligence (CDD)

Stage 1

Identify and Clarify who is:

1. The client
2. Any official owner of the client and its property if not the client (Beneficial Owner).

AML applies to 1 and 2.

Stage 2

Categories of Client:

1. Individual
2. Professional
3. Persons acting on behalf of a client
4. Partnerships
5. Limited partnerships
6. Private and unlisted companies
7. Public companies listed in the UK
8. Public overseas clients
9. Private and unlisted overseas clients
10. Trustees
    - 10.1 The Settlor
    - 10.2 The Trustee
    - 10.3 The protector
11. Foundations
12. Charities
13. Deceased's persons estate
14. Churches/place of worship
15. Schools and colleges

16. Clubs and associations
17. Pension funds
18. Government Agent

Stage 3

The Client Verification and Information

The following is the verification and information required for each category of client as listed above, copies of which must be kept on file. Therefore having identified the category of client look below.

Individuals

A natural person's identity comprises a number of aspects, including their name, current and past addresses, date of birth, place of birth, physical appearance, employment and financial history, and family circumstances. You should use information or documents from a reliable source. As to verification and identification required see the section **Verification of Clients Identity** to which this Appendix is attached.

Professionals

Where other professionals use your services in their capacity as a professional rather than a private individual, you may consult their professional directory to confirm the person's name and business address. It will not be necessary to then confirm the person's home address.
You may consult directories for foreign professionals, if you are satisfied it is a valid directory, e.g. one produced and maintained by their professional body, and if necessary, you can translate the information unless you already have a sufficient understanding of what it says.

Persons acting on behalf of the client

In accordance with Regulation 28(10) where a person (the representative) purports to act on behalf of your client, you must:

- verify that the representative is authorised to act on your client's behalf. Obtain any document such as Power of Attorney, Agency Agreement or letter of Authority.
- identify the representative
- verify the identity of the representative on the basis of documents and information from a reliable source which is independent of both the representative and the client. Obtain documents as is required for an Individual.

Partnerships, limited partnerships, Scottish limited partnerships and UK LLPs

A partnership, other than in Scotland, is not a separate legal entity, so you must obtain information on the constituent individuals.
Where partnerships or unincorporated businesses are:

- well-known, reputable organisations
- with long histories in their industries, and
- with substantial public information about them, their principals, and controllers.

The following information should be sufficient:

- name
- registered address, if any
- trading address
- nature of business

Other partnerships and unincorporated businesses which are small and have few partners should be treated as private individuals. Where the numbers are larger, they should be treated as private companies.

Where a partnership is made up of regulated professionals, it will be sufficient to confirm the practice's existence and the trading address from a reputable professional directory or search facility with the relevant professional body. Otherwise you should obtain evidence on the identity of at least the partner instructing you and one other partner, and evidence of the practice's trading address.

Always be satisfied that partner instructing you has authority to act on behalf of the partnership.

A requirement for a partnership to register as a trust with the Trust Registration Service (TRS) may arise if not all partners have legal title over the partnership asset. This could occur where partners have a declaration of trust to govern property ownership or if it is covered by the partnership agreement.

When entering into a new business relationship with partnerships where the legal ownership of property is different from the beneficial ownership you must ask for proof of registration on TRS and deal with the rectification or reporting of any discrepancies as outlined in detail in the section relating to Trusts.

For a UK LLP, you should obtain information in accordance with the requirements for companies as outlined below.

Companies

A company is a legal entity in its own right, but conducts its business through representatives. You must identify and verify the existence of the company. Also be satisfied the representatives has authority to give instructions.

In this section we deal with the following company entities:

1. Public Companies Listed in the UK
2. Private and Unlimited Companies in the UK
3. Public Overseas Companies.
4. Private and Unlisted Overseas Companies

A company's identity comprises its constitution, its business and its legal ownership structure.

Where a company is a well-known household name, you may consider that the level of money laundering and terrorist financing risks are low and apply CDD measures in a manner which is proportionate to that risk.

Where you commence acting for a subsidiary of an existing client, you may have reference to the CDD file for your existing client for verification of details for the subsidiary, provided that the existing client has been identified to the standards of the Regulations.

You will also need to consider the identity of beneficial owners where you cannot apply simplified due diligence.

Public companies listed in the UK

Regulation 28 (3) requires that, in all cases, if a client is a corporate body you must obtain and verify:

- its name
- the company number or other registration number, and
- the address of the registered office and, if different, principal place of business.

Unless the body corporate is a company listed on a regulated market, you must also take reasonable measures to determine and verify:

- the law to which it is subject and its constitution
- the full names of the board of directors (or equivalent management body) and senior persons responsible for its operations.

In accordance with Regulation 28(5), if the company is listed on a regulated market it is not necessary to:

- obtain information about the beneficial owners of the company, or
- take reasonable measures to determine and verify the law to which it is subject or the names of its directors and senior persons.

The fact that a company's securities are listed on a regulated market is also one of the factors specified in Regulation 37(3) which you must take into account when deciding whether the risk is low and whether to apply simplified due diligence to a particular client. Simplified due diligence can also be applied to a majority-owned subsidiary of such a company.

Following an assessment that the client is low risk it will be sufficient, for a listed company, to obtain confirmation of the company's listing on the regulated market. Such evidence may be:

- a copy of the dated page of the website of the relevant stock exchange showing the listing
- a photocopy of the listing in a reputable daily newspaper
- information from a reputable electronic verification service provider or online registry.

For a subsidiary of a listed company you will also require evidence of the parent/subsidiary relationship. Such evidence may be:

- the subsidiary's last filed annual return
- a note in the parent's or subsidiary's last audited accounts
- information from a reputable electronic verification service provider or online registry
- information from the parent company's published reports, for example, from their website.

The regulated market in the UK is the London Stock Exchange. AIM is not considered a regulated market within the UK, but under the risk-based approach you may feel that the due diligence process for listing on AIM gives you equivalent comfort as to the identity of the company under consideration.

Where further CDD is required for a listed company (i.e. when it is not on a regulated market) obtain relevant particulars of the company's identity.

Verification sources may include:

- a search of the relevant company registry (such as Companies House)
- a copy of the company's certificate of incorporation
- information from a reputable electronic verification service provider

You are still required to conduct ongoing monitoring of the business relationship with a publicly-listed company to enable you to spot suspicious activity. See section 4.6 for further guidance on ongoing monitoring.

Private and unlisted companies in the UK

Private companies are generally subject to a lower level of public disclosure than public companies. In general however, the structure, ownership, purposes and activities of many private companies will be clear and understandable.

You must obtain and verify:

- the name
- the company number or other registration number
- the address of the registered office and principal place of business. You must take reasonable measures to determine and verify:
  - the law to which it is subject and its constitution
  - the full names of the board of directors(or equivalent management body) and senior persons responsible for its operations.

Sources for verifying corporate identification may include:

- certificate of incorporation
- details from the relevant company registry, confirming details of the company and of the director/s and their address
- filed audited accounts
- information from a reputable electronic verification service provider.

Public overseas companies

You must obtain and verify the:

- company name
- company number or other registration number
- address of the registered office and, if different, principal place of business. You must take reasonable measures to determine and verify the:
  - law to which it is subject and its constitution
  - full names of the board of directors (or equivalent management body) and senior persons responsible for its operations.

In accordance with Regulation 28 (5), if the company is listed on a regulated market it is not necessary to:

- obtain information about the beneficial owners of the company, or
- take reasonable measures to determine and verify the law to which it is subject or the names of its directors and senior persons.

This may also be applied to a majority-owned subsidiary of such a company. "Regulated market" is defined as follows:

(a) Within the EEA, the meaning given by Article 4.1 (14) of the Markets in Financial Instruments Directive

(b) Outside the EEA, a regulated financial market which subjects companies whose securities are admitted to trading to disclosure obligations which are equivalent to the specified disclosure obligations.

(c) Specified disclosure obligations are disclosure requirements consistent with specified articles of:

- The Prospectus Directive [2003 / 71 / EC]
- The Transparency Obligations Directive [2004 / 109 / EC]
- The Market Abuse Regulation [No 596 / 2014]

If a regulated market is located within the EEA there is no requirement to undertake checks on the market itself. Under a risk-based approach you may wish to simply record the steps taken to ascertain the status of the market.

Consider a similar approach for non-EEA markets that subject companies to disclosure obligations which are contained in international standards equivalent to specified disclosure obligations in the EU.

Consult the register on the European Securities and Markets Authority website.

Evidence of the company's listed status should be obtained in a manner similar to that for UK public companies. Companies whose listing does not fall within the above requirements should be identified in accordance with the provisions for private companies.

Private and unlisted overseas companies

Obtaining CDD material for these companies can be difficult, particularly regarding beneficial ownership.

You should apply the risk-based approach, looking at the risk of the client generally, the risk of the retainer and the risks presented as a result of the country in which the client is incorporated. Money laundering risks are likely to be lower where the company is incorporated or operating in an EEA state or a country which is a member of FATF.

The company's identity is established in the same way as for UK private and unlisted companies. Where you are not obtaining original documentation, you may want to consider on a risk sensitive basis having the documents certified by a person in the regulated sector or another professional whose identity can be checked by reference to a professional directory.

Trustees

Who is the client?

Trusts, including express trusts, do not have legal personality. As such, you cannot take on a trust as your client. When advising in relation to a trust your client may be the either:

- the settlor
- the trustee(s)
- the protector(s) or
- one or more of the beneficiaries.

Determining which of the settlor, the trustee(s), the protector(s) or one or more of the beneficiaries is/are your client(s) will involve an analysis of the person to whom you owe your duty of care and who will receive the benefit of your advice.

Where an express trust has yet to be established and you are providing tax or transactional advice to a prospective settlor in anticipation of creating a trust your client will usually be the settlor. If your client is represented by an intermediary, ensure that you comply with Regulation 28(10) and identify and verify the intermediary's identity and authority to act on behalf of your underlying client.

Your CDD will also involve identifying and verifying the identity of your settlor client and, if applicable, understanding the settlor's net wealth and the nature and extent of the assets that will be settled on the trust. The information and documents you obtain will depend on whether your client is a natural person or an entity. If the settlor is an entity you will also need to understand its beneficial owner.

Trust Registration Service

The Trust Registration Service (TRS) is a register of the beneficial ownership of trusts maintained by HMRC. From 2017 onwards trusts were required to register if the trust was liable to pay income tax, capital gains tax, inheritance tax or Stamp Duty Land Tax. From October 2020 trusts must be registered with the TRS even if there is no tax liability unless the trust meets one of the exemptions from registration. Non-taxable trusts created after 1 September 2022 must register within 90 days of creation.

When entering into a new business relationship with trustees you must ask for proof of registration on TRS.

If you find a discrepancy in trust data when reviewing proof of registration you must

- first seek to resolve this with the trustee or agent – e.g. point out the discrepancy and ask them to update TRS and provide an updated version.
- If the trust has not yet been registered point out that this is a discrepancy and that it must be registered in order to proceed.
- If the discrepancy cannot be resolved, it must be reported to HMRC.

When should a trust's beneficial owners be considered?

If you go on to advise a settlor on trust affairs once the trust has been established, and whenever you are instructed by someone involved with an existing trust to advise in relation to it, you will need to extend your CDD to the trust's beneficial owners.

Regulation 28 (4) (a) requires a relevant person to identify the beneficial owner 'of a customer' which is beneficially owned by another person. Regulation 6 (1) defines 'the beneficial owners in relation to a trust' as the settlor, the trustees, the beneficiaries (or class of beneficiaries) and any individual who has control over the trust. Although your client will not actually be the trust (because a trust does not have legal personality), if you advise any client in relation to a trust, the Regulations require you to understand who the trust's other beneficial owners are, as defined in Regulation 6 (1).

Does enhanced CDD apply?

UK common law trusts are used extensively in everyday situations and often pose a limited risk of money laundering or terrorist financing. However, trusts are vehicles for holding (often personal) assets because they exist to separate legal and beneficial ownership.

Under Regulation 33(6)(a)(iii) you must take into account whether 'the customer is a legal person or legal arrangement that is a vehicle for holding personal assets' as a 'customer risk factor' when you are assessing whether there is a high risk of money laundering or terrorist financing in a particular situation which may oblige you to apply EDD measures.

While you must take this factor into account when deciding whether there is a high risk of money laundering and terrorist financing, you should consider the situation as a whole.
Factors that may increase the risk of money laundering or terrorist financing when advising a client in relation to a trust are:

- if the client requests a trust to be used when there seems to be little reason to do so
- the trust is established in a jurisdiction with limited AML/CTF regulation, or
- there are concerns about the client's net wealth or source of funds which will be contributed to the trust, for example, there are public domain allegations that they may potentially harbour the proceeds of crime.

When assessing whether a situation poses a higher risk of money laundering and terrorist financing you must take into account the risk factors set out in Regulation 33 (6). However, as Regulation 33 (7) makes clear, the presence of one of these risk factors does not in and of itself mean that a particular situation is high risk. If, having considered the risk factors in Regulation 33 (6) and any other relevant warning signs, you determine that a higher risk of money laundering or terrorist financing is present, then you must apply EDD measures.
EDD may also apply because your client or one of the trust's other beneficial owners is established in a high risk third country or a PEP. See section 4.12.2.
Applying EDD measures will involve you understanding:

- your client's net wealth and, where they have a funding role, their source of funds,
- the amount and nature of the trust assets and
- the background to the trust and purpose for which the trust was set up. EDD will also involve your applying increased monitoring.

Specific CDD requirements where you are instructed in relation to an existing trust

Bearing the above in mind, where you are instructed in relation to an existing trust, when applying CDD, you may need:

- to obtain and verify the identity of your client (which as above may be the settlor, trustee(s), protector(s) or beneficiary(ies));
- where you act for more than two trustees (or protectors), only to obtain and verify the identity of two trustees (or protectors);
- here you act for several beneficiaries (subject to conflicts issues), to obtain and verify the identity of each of them, unless you are acting for them as a class (in which case you should identify the class by its name);
- if your client (whether the settlor, trustee(s), protector(s) or beneficiary(ies)) is an entity, in each case to identify its beneficial owner;
- where your client has had a trust funding role, to understand your client's net wealth and the source of funds which were contributed (or which were used to acquire assets which were contributed) to the trust;
- to understand the nature and extent of the assets settled on the trust; and
- to understand and record the identity of the (non-client) settlor, trustee(s), protector(s), and/or beneficiary(ies) and any person who otherwise has control of the trust, as trust beneficial owners.

If the trust is a relevant trust you should also identify potential beneficiaries.

Should further CDD be sought if the identified beneficial owner is an entity?

If the identified beneficial owner is an entity, you will need to understand who its ultimate beneficial owners are, depending on the entity's status (e.g. whether it is a company or a charity).

The extent of the reasonable measures you take to identify the ultimate beneficial owner of one of the trust's defined 'beneficial owners' will depend on its role in relation to the trust. The ultimate beneficial owner of a settlor, protector or sole beneficiary entity should be fully investigated. As a trustee has no beneficial interest in the trust assets, you need not, in the absence of any suspicions, identify the ultimate beneficial owner of a professional trustee entity. It may not be necessary to identify the ultimate beneficial owner of an entity beneficiary where it is one of many discretionary beneficiaries.

Who is a 'beneficiary' for the purposes of CDD where you act in relation to trusts?

Regulation 6 (1) implies that individual beneficiaries need not be identified in CDD unless it has been determined that they will benefit from the trust. That is, unless and until they have a vested interest in the capital of the trust.

However, as CDD is a 'snapshot' process, undertaken at commencement of the relevant business relationship, you may wish to note the names of all discretionary beneficiaries (including those who have yet to acquire determined interests) named in the trust deed and any document from the settlor relating to the trust, such as a letter of wishes. This is because their interests may vest (or otherwise be determined) while you are acting in relation to the trust, thus bringing them within the group of individuals who need to be noted in CDD as beneficiaries, as defined in Regulation 6 (1) (c).

In any event, if you decide not to note individual beneficiaries named in the trust deed or any associated document on the basis that you have assured yourself that their benefit from the trust has not yet been determined, you should identify any named class of beneficiaries, by its description. For example:

- grandchildren of [X]
- Charity [Y]

When considering the identity of those in whose main interest a trust is set up or operates and there are several classes of beneficiary, consider which class is most likely to receive most of the trust property. For example:

- where a trust is for the issue of [X], then the class is the issue of [X] as there is only one class
- where a trust is for the children of [X], if they all die, for the grandchildren of [X] and if they all die for charity [Y], then the class is likely to be the children of [X] as it is unlikely that they will all die before the funds are disbursed
- where a discretionary trust allows for payments to the widow, the children, their spouses and civil partners, the grandchildren and their spouses and civil partners then all interests are equal and all classes will need to be identified.

When in doubt about which class has the main interest, you should identity all classes.

However, where you act in relation to a discretionary trust, if you decide against noting in your CDD the names of individual beneficiaries who are named in the trust deed or any associated document on the basis that their benefitting from the trust has not yet been determined, you will need to seek regular updates from your client, on when and whether beneficiaries' interests in the trust will be or have been determined.
The wider approach, involving noting all beneficiaries and potential beneficiaries named in the trust deed and any associated document at CDD outset, may therefore be preferable.

What does 'an individual who has control over the trust' mean?

Regulation 6 (1) (e) brings any individual who has control over the trust within the definition of the beneficial owners of a trust and they will therefore need to be identified when you act in relation to a trust.
Regulation 6 (2) defines control as a power, whether exercisable alone, jointly or with the consent of another, under the trust instrument or by law to:

- dispose of, advance, lend, invest, pay or apply trust property
- vary or terminate the trust
- add or remove a person as a beneficiary or to or from a class of beneficiaries
- appoint or remove trustees or give another individual control over the trust
- direct, withhold consent to or veto the exercise of one of the above powers.

Regulation 6 (4) (b) specifically excludes from the definition of an individual who has control over a trust an individual ('P') who has control solely as a result of:

- P's consent being required in accordance with section 32(1)(c)(power of advancement) of the Trustee Act 1925
- any discretion delegated to P under section 34 (power of investment and delegation) of the Pensions Act 1995
- the power to give a direction conferred on P by section 19(2) (appointment and retirement of trustee at instance of beneficiaries) of the Trusts of Land and Appointment of Trustees Act 1996, or
- the power exercisable collectively at common law to vary or extinguish a trust where the beneficiaries under the trust are of full age and capacity and (taken together) absolutely entitled to the property subject to the trust (or, in Scotland, have a full and unqualified right to the fee).

CDD implications arising from the register of beneficial owners of taxable relevant trusts

If you or your practice on occasions acts as (as opposed to for) a trustee of a taxable relevant trust, pursuant to Regulation 44 of the Regulations you will need to maintain accurate and up to date records of all beneficial owners and potential beneficiaries of the trust. Even if your practice is also acting for the trustee(s) and has applied CDD, this may involve you in more extensive and onerous investigations.

A taxable relevant trust is:

- a UK express trust, meaning that either all the trustees are resident in the UK or at least one trustee is UK resident and the settlor was UK resident and domiciled when the trust was set up or when the settlor added funds to it; or
- any other (non UK) express trust which, in any tax year, becomes liable to pay one or more of UK income tax, capital gains tax, inheritance tax, stamp duty land tax, land and buildings transaction tax or stamp duty reserve tax in relation to UK income or assets.

If you form a business relationship in your role as trustee with a relevant person, which could be an advisory relationship with your practice (if it is subject to the Regulations), you will need to inform the relevant person that you are acting as a trustee and on request provide the relevant person with information identifying the trust's beneficial owners and potential beneficiaries.

That obligation lies on (external) trustees of relevant trusts who enter into transactions in relation to which you or your practice are required to apply CDD or who form a business relationship with you or your practice (if you are subject to the Regulations). This should assist you in your compliance with your CDD obligations and is another reason why it makes sense to extend your CDD in relation to a relevant trust's beneficial owners also to cover potential beneficiaries.

Otherwise, from a reputational risk and advisory perspective, as law enforcement authorities may gain access to information not only about the trust's beneficial owners as defined in Regulation 6(1) but also the names of those individuals who are referred to in any document from the settlor, such as a letter of wishes, relating to the trust, it is likely to be prudent to note such wider information in your CDD records where you act for any client in relation to a relevant trust, and, indeed where you act in relation to any trust.

The information which needs to go on the register in relation to each identified individual is extensive and set out in Chapter 5.

Practical considerations

Applying CDD where you act in relation to an existing trust will usually involve your having sight of the trust deed and, as above, any document which relates to it.

Alternatively, you may be able to rely on assurances from the client or another regulated person who has had an involvement with setting up or managing the trust. However, before doing so, you should note and be assured that the reason for your not being provided with the trust deed and any document which relates to it makes sense in all of the circumstances and is not in itself indicative of a high risk of money laundering.

You will also need to assure yourself that in identifying the trust's beneficial owners, the client or other regulated person, as appropriate, had proper regard to whether they included any individual (other than the settlor, the trustees and the beneficiaries) who has control over the trust, and potential beneficiaries.

Foundations

Foundations may or may not have legal personality. You should investigate whether this is the case (e.g. is the relevant structure incorporated?) and thus whether it is appropriate to take on the foundation as your client or whether, as in the case of a trust, your client should be the board of trustees or another party involved with the foundation.

If the foundation lacks legal personality, you should approach CDD, where you act in relation to it, as you would where you act for a client in relation to a trust. Regulation 6 (5) provides that 'beneficial owner' in relation to a foundation or other legal arrangement similar to a trust, mean those individuals who hold equivalent or similar positions to the (defined) beneficial owners of trusts.

Charities

Charities may take a number of forms. In the UK, you may come across five types of charities:

- small
- registered
- unregistered
- excepted, such as churches
- exempt, such as museums and universities

For registered charities, you should take a record of their full name, registration number and place of business. Details of registered charities can be obtained from:

- The Charity Commission of England and Wales.
- The Office of the Scottish Charity Regulator.
- The Charity Commission for Northern Ireland.

Other countries may also have charity regulators which maintain a list of registered charities. You may consider it appropriate to refer to these when verifying the identity of an overseas charity.

For all other types of charities you should consider the business structure of the charity and apply the relevant CDD measures for that business structure. You can also generally get confirmation of their charitable status from HMRC. Further, in applying the risk-based approach to charities it is worth considering whether it is a well-known entity or not.

The more obscure the charity, the more likely you are to want to view the constitutional documents of the charity.

Due to the increased interest in some charities and not-for-profit organisations from terrorist organisations you may want to also consult HM Treasury's consolidated list of persons designated as being subject to financial restrictions to ensure the charity is not a designated person.

Deceased persons' estates

When acting for the executor(s) or administrators of an estate, you should establish their identity using the procedures for natural persons or companies set out above. When acting for more than one executor or administrator, it is preferable to verify the identity of at least two of them. You should consider getting copies of the death certificate, grant of probate or letters of administration.

If a will trust is created, and the trustees are different from the executors, the procedures in relation to trusts will need to be followed when the will trust comes into operation.

If the estate will remain in administration for more than two years following the date of death, or if trusts arising under the will remain in existence for more than two years following the date of death the deceased estate and/or any trusts arising under it must be registered with the Trust Registration Service (TRS) within two years of the date of death.

When entering into a new business relationship with executors of estates which have been in administration for more than two years, or who are holding funds on trusts created by the will for more than two years following the date of death, you must ask for proof of registration on TRS and deal with the rectification or reporting of any discrepancies as outlined in detail in the section relating to Trusts.

Churches and places of worship

Places of worship may either register as a charity or can apply for registration as a certified building of worship from the General Register Office (GRO) which will issue a certificate. Further, their charitable tax status will be registered with HMRC. As such, identification details with respect to the church or place of worship may be verified:

- as for a charity
- through the headquarters or regional organisation of the denomination or religion.

For UK charities, identification details may be verified:

- with reference to the GRO certificate
- through an enquiry to HMRC.

Schools and colleges

Schools and colleges may be a registered charity, a private company, an unincorporated association or a government entity and should be verified in accordance with the relevant category.

The Department of Education maintains lists of approved educational establishments which may assist in verifying the existence of the school or college.

Clubs and associations

Many of these bear a low money laundering risk, but this depends on the scope of their purposes, activities and geographical spread.

The following information may be relevant to the identity of the club or association:

- full name
- legal status
- purpose
- any registered address
- names of all office holders

Documents which may verify the existence of the club or association include:

- any articles of association or constitution
- statement from a bank, building society or credit union
- recent audited accounts
- financial statements presented to the annual general meeting
- listing in a local or national telephone directory

Pension funds

Regulation 37 provides that simplified due diligence is permitted where there is a low risk of money laundering or terrorist financing, taking account of the risk assessment for that client/matter and the risk factors referred to in Regulation 37 (3).

The risk factors include product and service factors including where the product is a pension, superannuation or similar scheme which provides retirement benefits to employees, where contributions are made by way of deduction from an employee's wages and the scheme rules do not permit the assignment of a member's interest under the scheme.

So you will need evidence that the product is such a scheme and so qualifies for simplified due diligence. Such evidence may include:

- a copy of a page showing the name of the scheme from the most recent definitive deed
- a consolidating deed for the scheme, plus any amending deed subsequent to that date, from which you can assess how contributions are made and member's interest assignment rights.

Pension funds or superannuation schemes outside the above definition should be subject to CDD according to their specific business structure.

For information on how to conduct CDD on other funds please see the JMLSG's Guidance.

Government agencies and councils

The money laundering and terrorist financing risks associated with public authorities vary significantly depending on the nature of the retainer and the home jurisdiction of the public authority. It may be simple to establish that the entity exists, but where there is a heightened risk of corruption or misappropriation of government monies, greater monitoring of retainers should be considered.

The following information may be relevant when establishing a public sector entity's identity:

- full name of the entity
- nature and status of the entity
- address of the entity
- name of the home state authority
- name of the directors or equivalent
- name of the individual instructing you and confirmation of their authority to do so
- extract from official government website

Under Regulation 37 (3) the fact that the client is a public administration or publicly owned enterprise is one of the factors to take into account when deciding whether it is low risk and whether to apply simplified due diligence. It will usually be appropriate to apply simplified due diligence to UK public authorities and to some non-UK public authorities, particularly those in the EEA.

Stage 4

Beneficial Owner

The following is a list of categories of where Beneficial Owners will arise:

1. Agency
2. Companies
3. Shareholders
4. Partnerships
5. Trusts
6. Other arrangements and legal entities

Stage 5

Beneficial Owner – Information and Enquiries

Dealing with each of the categories below is the information to assist in the enquiries and verification that is necessary.

General Comments

To identify the beneficial owner, obtain at least their name and record any other identifying details which are readily available. You may decide to use records that are publicly available, ask your client for the relevant information or use other sources.

To assess which verification measures are needed, consider the client's risk profile, any business structures involved and the proposed transaction.

The key is to understand the ownership and control structure of the client. A prudent approach is best, monitoring changes in instructions, or transactions which suggest that someone is trying to undertake or manipulate a retainer for criminal ends. Simply ticking boxes will not satisfy the risk-based approach. You must take reasonable measures to verify the identity of the beneficial owner so you are satisfied that you know who they are.

Appropriate verification measures may include:

- a certificate from your client confirming the identity of the beneficial owner
- a copy of the trust deed, partnership agreement or other such document
- shareholder details from an online registry
- the passport of, or electronic verification on, the individual
- other reliable, publicly available information.

It is not enough to rely only on the information contained in a company's register of persons with significant control.

It is vital to understand in what capacity your client is instructing you to ensure that you are identifying the correct beneficial owners.

If for example you are acting for Bank A, which is a corporate entity, to purchase new premises for Bank A, then it would be the shareholders and controllers of Bank A who are the beneficial owners. However, if Bank A is a trustee for XYZ Trust and they have instructed you to sell trust property, then Bank A is instructing you on behalf of the arrangement which is XYZ Trust in their capacity as trustee. The beneficial owners in that transaction will be those with specified interests in and / or control of the XYZ Trust.

Agency

Regulation 6 (9) says a beneficial owner generally means any individual who ultimately owns or controls the client or on whose behalf a transaction is being conducted.

In these cases, it is presumed that the client is himself the beneficial owner, unless the features of the transaction indicate that they are acting on someone else's behalf. So you do not have to proactively search for beneficial owners, but to make enquiries when it appears the client is not the beneficial owner.

Situations where a natural person may be acting on behalf of someone else include:

- exercising a power of attorney. The document granting power of attorney may be sufficient to verify the beneficial owner's identity
- acting as the deputy, administrator or insolvency practitioner. Appointment documents may be sufficient to verify the beneficial owner's identity
- acting as an appointed broker or other agent to conduct a transaction. A signed letter of appointment may be sufficient to verify the beneficial owner's identity.

You should be alert to the possibility that purported agency relationships are actually being utilised to facilitate a fraud. Understanding the reason for the agency, rather than simply accepting documentary evidence of such at face value, will assist to mitigate this risk. Where a client or retainer is higher risk, you may want to obtain further verification of the beneficial owner's identity in line with the suggested CDD methods to be applied to natural persons.

Companies

Regulation 5 (1) defines the beneficial owner of a body corporate, other than a listed company, as meaning:
any individual who:

- exercises ultimate control over the management of the body corporate
- ultimately owns or controls, directly or indirectly, including through bearer share holdings or other means, more than 25% of the shares or voting rights in the body corporate, or
- otherwise controls the body:
    - by satisfying one or more of the conditions set out in Part 1 of Schedule 1A to the Companies Act 2006 (persons with significant control) or
    - if the individual was an undertaking the body corporate would be a subsidiary undertaking of the individual under section1162 of the Companies Act 2006 read with Part 7 of that Act.

This Regulation does not apply to a company listed on a regulated market. It does apply to UK limited liability partnerships.

Shareholdings

You should make reasonable and proportionate enquiries to establish whether beneficial owners exist and, where relevant as determined by your risk analysis, verify their identity.
These may include:

- getting assurances from the client on the existence and identity of relevant beneficial owners
- getting assurances from other regulated persons more closely involved with the client, particularly in other jurisdictions, on the existence and identity of relevant beneficial owners
- conducting searches on the relevant online registry
- obtaining information from a reputable electronic verification service.

You cannot rely solely on the information contained in the company's register of persons with significant control. Where the holder of the requisite level of shareholding of a company is another company, apply the risk-based approach when deciding whether further enquiries should be undertaken.

A proportionate approach

It would be disproportionate to conduct independent searches across multiple entities at multiple layers of a corporate chain to see whether, by accumulating very small interests in different entities, a person finally achieves more than a 25 per cent interest in the client corporate entity. You must simply be satisfied that you have an overall understanding of the ownership and control structure of the client company.
Voting rights are those which are currently exercisable and attributed to the company's issued equity share capital.

Companies with capital in the form of bearer shares

These pose a higher risk of money laundering as it is often difficult to identify beneficial owners and such companies are often incorporated in jurisdictions with lower AML/CTF regulations. You should adopt procedures to establish the identities of the holders and material beneficial owners of such shares and ensure you are notified whenever there is a change of holder and/or beneficial owner. This may be achieved by:

- requiring that the shares be held by a regulated person
- getting an assurance that either such a regulated person or the holder of the shares will notify you of any change of records relating to the shares.

Control

A corporate entity can also be subject to control by persons other than shareholders.
Such control may rest with those who have power to manage funds or transactions without requiring specific authority to do so, and who would be in a position to override internal procedures and control mechanisms.
You should remain alert to anyone with such powers while you are obtaining a general understanding of the ownership and control structure of the corporate entity. Further enquiries are not likely to be necessary. Monitor situations within the retainer where control structures appear to be bypassed and make further enquiries at that time.

Partnerships

Regulation 5 (3) provides that in the case of a partnership (but not a limited liability partnership) the following individuals are beneficial owners:

- any individual ultimately entitled to or who controls, (whether directly or indirectly), more than 25 per cent of the capital or profits of the partnership or more than 25 per cent of the voting rights in the partnership, or
- any individual who otherwise exercises control over the management of the partnership

Relevant points to consider when applying Regulation 5 (3):

- the property of the entity includes its capital and its profits
- control involves the ability to manage the use of funds or transactions outside of the normal management structure and control mechanisms

You should make reasonable and proportionate enquiries to establish whether beneficial owners exist and, where relevant, verify their identity in a risk-based manner.
Enquiries and verification may be undertaken by:

- receiving assurances from the client on the existence and identity of relevant beneficial owners
- receiving assurance from other regulated persons more closely involved with the client, particularly in other jurisdictions, on the existence and identity of relevant beneficial owners
- reviewing the documentation setting up the partnership such as the partnership agreement or any other profit-sharing agreements.

Trusts

See information under the heading Client and Trust, set out above.

Other arrangements and legal entities

Regulation 6 (7) provides that where you are dealing with a client who is not a natural person, nor a corporate entity or a trust, then the following individuals are beneficial owners:

- any individual who benefits from the property of the entity or arrangement
- where the individuals who benefit from the entity or arrangement have yet to be determined, the class or persons in whose main interest the entity or arrangement is set up or operates
- any individual who exercises control over the property of the entity or arrangement.

Unincorporated associations and foundations are examples of entities and arrangements likely to fall within this Regulation.

When applying this Regulation relevant points to consider are:

- the property of the entity includes its capital and its profits
- determined benefits are those to which an individual is currently entitled
- contingent benefits or situations where no determination has been made should be dealt with as a class as benefit has yet to be determined
- a class of persons need only be identified by way of description
- an entity or arrangement is set up for, or operates in, the main interest of the persons who are likely to get most of the property
- control involves the ability to manage the use of funds or transactions outside the normal management structure and control mechanisms
- where you find a body corporate with the requisite interest outlined above, you will need to make further proportionate enquiries as to the beneficial owner of the body corporate.

You should make reasonable and proportionate enquiries to establish whether beneficial owners exist and, where relevant, verify their identity in a risk-based manner.

Enquires and verification may be undertaken by:

- asking the client and receiving assurances as to the existence and identity of beneficial owners
- asking other regulated persons more closely involved with the client (particularly in other jurisdictions) and receiving assurances as to the existence and identity of beneficial owners
- reviewing the documentation setting up the entity or arrangement such as its constitution or rules.

APPENDIX 6

INTERNAL SUSPICION REPORTING FORM

Money Laundering Suspicion Report

Complete this form in as much detail as possible and then send it to your AMLRO

Reporting member of staff

Name: _____ Tel: _____

Branch / Office / Department: _____

Position: _____

Client being reported (fill in as much detail as possible)

Name: _____

Account or reference number: _____

Address: _____

_____ Tel: _____

For individual clients

Date of birth: _____ Passport / ID Document Number: _____

Gender: _____ Nationality: _____

For corporate clients

Type of entity (circle one) Company Trust Partnership Other

Suspicion

Transaction, activity or situation that has aroused your suspicion _____

_____

Reason for suspicion _____

_____

_____

_____

_____

Reporter's signature _____ **Date:** _____

Beware of tipping off: do not tell the client or anyone else that you have made this report.
You will receive a receipt for your report within 48 hours of submission – remember to ask for your receipt if you do not receive it within this timeframe.

For the use of the AMLRO

Date received: _____ Time received: _____ Ref: _____

APPENDIX 7

ACKNOWLEDGEMENT RECEIPT FORM

Dear

Thank you for your recent money laundering suspicion report. I have logged this in my files and allocated to it the unique reference number: _____

You must not continue with any further business, or execute any transactions, on behalf of this client, without my consent.

You must not retain a copy of your report or a copy of any information that could identify the client in the matter of this suspicion.

In the meantime, please remember not to discuss your report, or even the fact that you have made a report, with anyone except me — including your colleagues and managers. In particular, do not indicate in any way to the client that a report has been made about him or record such information in the client file.

If other people within our organisation need to know about your report, I will let them know.

If I need any more information, I will get in touch with you. And if you are concerned about the report or about dealing with the client in the future, please contact me to discuss it.

Yours sincerely

_____

Anti Money Laundering Reporting Officer

GLAISYERS
ETL
GLOBAL

Manchester Office:
3 Hardman Street
Manchester M3 3HF
T: 0161 832 4666

Liverpool Office:
The Plaza
100 Old Hall St
Liverpool L3 9QJ
T: 0151 332 3555

hello@glaisyers.com
www.glaisyers.com