



Indicators of Higher Risk of Money Laundering – April 2024

Introduction

The IPA have considered information from the Government's [2020 National Risk Assessment of money laundering & terrorist financing](#) and the [National Risk Assessment of Proliferation Financing 2021](#) as well as information from the National Crime Agency ('NCA'), details from other professional body supervisors as well as intelligence and findings from inspection visits/complaints and compliance reviews to identify circumstances that may indicate a higher risk of money laundering for Insolvency Practitioners ('IPs').

IPs should note that the risk of money laundering and therefore indicators of higher risk areas is a constantly evolving situation. IPs need to continue to be aware of changes to high-risk third countries which are reviewed by the Financial Action Task Force ('FATF') three times a year (February, July & October) and published by FATF on their [website](#).

Members must note that Sch3ZA of MLR17(as amended) has now been removed and updates on high-risk countries will be advised by the Government, but members must ensure that the FATF website is reviewed at least each Feb, July & Oct to ensure that members remain compliant with Reg33(3)(a).

Members must also remain alive to the risks from misuse of Covid business support schemes remains a high-risk area and a subject of focus for the IPA.

IPs will also be aware of the ongoing impact of sanctions on Russian & Belarussian entities and the risks that arise from these cases.

Updates on risk areas are regularly issued by the NCA and members should regular review the NCA website. These updates tend to highlight new and emerging industry type risks, IPs must be alive to these updates and where cases are held, appointments are being made, or where your firm has an industry specialism that is reported on by the NCA, your risk assessment must be updated to highlight the new increased risks to your teams.

Please also note that the information provided is not exhaustive.

IPs and firms should regularly consider the information provided as part of a review of your firm risk assessment under Regulation 18/18A of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 ('MLR17') (as amended). IPs should also ensure that policies, controls and procedures under Regulation 19/19A

mitigate and manage effectively the risks of money laundering and proliferation financing identified in your risk assessment.

Please remember, that whilst some money laundering risks will be relevant for all insolvency firms, there will be specific matters and issues that arise in the work your firm undertakes and from the client base which provides your work, which results in an increased risk of money laundering for your firm.

The IPA have an email address for any questions or advice on Anti-Money Laundering ('AML') compliance and would also appreciate any intelligence or information from members on money laundering matters. The email address is aml@ipa.uk.com

General matters

The following are general indicators of a potentially higher risk of money laundering:

1. Undue secrecy and reluctance to provide requested information for Client Due Diligence ('CDD') checks or in relation to investigations carried out under Statement of Insolvency Practice 2 ('SIP2')
2. Individuals/directors/company officers who are uncooperative
3. Unnecessary and overly complex ownership structures of companies – are there parent companies not in the UK, unnecessary holding companies, nominee shareholders etc? REMEMBER – where there may be any link or ownership by a Russian or Belarussian company, checks of the Office for Financial Implementation ('OFSI') [consolidated list](#) should be undertaken and a report made to OFSI if there is a potential sanctions breach. Consideration should also be given to whether a licence is required to continue with any such appointment. A link to the OFSI Guidance to consider whether a licence may be needed and to ensure you remain compliant with OFSI requirements can be found [here](#)
4. Politically Exposed Persons ('PEPs'), especially foreign PEPs – as outlined in [Reg 35 MLR17](#). Members are reminded that PEP includes a family member or a close known associate of a PEP and that under Reg 35 (3A) the starting point for the assessment of a domestic PEP is lower than for a non-domestic PEP
5. Company recently set-up or purchased out of another insolvency where there is minimal trading and significant debts – especially debts to Her Majesty's Revenue & Customs ('HMRC'). Does this indicate a rapid rate of turnover of the business and are the directors involved in similar business purchases/failures?
6. Company that was dormant or set-up just prior to receiving Covid support – is it clear why the claim was made and where the funds were utilised?
7. Change in work undertaken by the company prior to insolvency/debt issues which was outside normal or stated business activities
8. Companies of Individuals with significant assets or cash balances – a check into the 'worth' and origin of funds and assets purchase should be undertaken as part of due diligence work
9. Are pre-insolvency transactions consistent with business/trading activities? For an individual are there any pre-insolvency transactions or asset purchases/sales that appear inconsistent with information provided by the individual?

10. Individuals, directors, officers who have known criminal convictions or are on the Office of Financial Sanctions Implementation ('OFSI') list
11. Has the proposed client changed professional advisers several times in a short space of time without legitimate reasons?
12. Was the service being sought refused by another professional advisor without legitimate reasons?
13. Is the proposed client prepared to pay substantially higher fees than usual without legitimate reasons or concern?
14. Is the referral from an unknown source, or in relation to a company or individual that is not local to your practice? Can you trust the referrer and why have they sought an IP to assist away from the place of business?
15. On-line contact – if initial contact is on-line and you are not meeting with the individual/directors, are you content that CDD work can be properly and fully carried out?
16. Is there any asset or transactions using Cyber currencies and is the use of Cyber currency in line with the business model or usual activity by an individual? If Cyber currencies are regularly used, does there appear to be any unusual activity via relevant Cyber wallets?

Consultative Committee of Accountancy Bodies ('CCAB') AML Guidance

IPs should also consider the risk factors as outlined in the following table which is from the Insolvency Appendix to the CCAB AML Guidance. Whilst there are some factors that are repeated from the details above, the table is a useful reference for further consideration of risk matters:

Client risk factors	<p>Where the debtor, company officers or beneficial owners of the insolvent entity are the subject of a criminal investigation or civil recovery proceedings.</p> <p>Where there have been cashflow issues in the business the IP should consider the possibility of fraud.</p> <p>Where the debtor or the insolvent entity is a "relevant person" within the definition of reg 8 of the 2017 Regulations, particularly when it has not recognised this.</p>
Service risk factors	<p>Where the insolvency proceedings will involve the realisation or distribution of assets of the insolvent entity.</p> <p>Where the IP cannot withdraw once appointment has been made.</p>

Geographical risk factors	<p>Where any of the following are within a country or countries identified as presenting high risk factors:</p> <ul style="list-style-type: none"> · the country of incorporation or residence of the client; · the location of the beneficial owner; · the location of assets or trading activities conducted; · the location into which payments may be made.
Channel risk factors	Where there is no personal contact with the debtor or the directors or beneficial owners of the insolvent entity.

Insolvency/Advisory specific matters

The IPA consider that the details below provide indicators of specific matters that may arise in respect of the initial consideration of proposed work or may arise after appointment during the progression of an insolvent estate. It is important therefore that risks are regularly reviewed during any appointment and reviews clearly documented in case files.

Risk should be reviewed and potentially amended with further due diligence work undertaken where there are triggers such as changes advised in the ownership/directors of businesses or with occasional transactions that total over €15,000.

Some case types do have an increased money laundering risk. For example, Members Voluntary Liquidations ('MVLs') are a prime example where an individual or individuals can set-up or purchase a company, purchase assets with tainted funds, run up a tax debt and then liquidate the company. The IP sells the assets and then distributes the funds to the directors/shareholders who now have 'clean' funds to use in criminal/illegal enterprises.

Creditors Voluntary Liquidations ('CVLs') are also a risk area, especially with issues stemming from COVID relief schemes. In particular low/no asset CVL estates where there is a bounce-back loan or other Covid Support. Consider bounce-back loans, misuse of furlough scheme funds by companies. Is the application clear for the loans, are you clear about where and how the funds were utilised? Ensure that bank statements are obtained to – at least – cover the period of receipt of funds to be able to review how the funds were used.

The following matters could also indicate a higher risk of money laundering in any appointment:

1. Cash-based business – is the business specifically cash-based and/or has had card facilities refused? Consider businesses such as take-aways, nail salons etc. With the increased use of card purchases for all types of businesses now, any business that has significant cash transactions must be treated as a high-risk case
2. Has the individual/director offered to pay for advice/any service in cash?
3. Has a payment for an instruction been made and then the instruction withdrawn, and the money asked to be refunded?
4. Companies with no or no UK based bank accounts – where are company funds banked? Who controls the account? If in an individual's name, is the individual providing access to the account to check transactions? Are they an officer of the company?
5. Companies/individuals with an excessive number of bank accounts for the trading pattern or assets held. Is it clear who controls accounts?
6. Company/individual bank accounts that have several small cash/cheque deposits during the day or funds are banked at irregular hours and at numerous branches. Bank statement reviews may assist in the consideration of banking patterns and to highlight anomalies. This pattern is typical of county-lines drug trades.
7. Property developers where there is no or unclear evidence of source of money to fund the purchase of properties, or where there is a large turnover of properties held
8. Businesses/individuals with a large portfolio of rental properties and high turnover of tenants – this can indicate links to people smuggling/prostitution. Are the properties in disrepair – are there potential issues with 'slum landlords'?
9. Businesses that operate as temporary staff providers – are there clear records of staff on their books and clients? Is there clear evidence that PAYE/Ni is dealt with properly?
10. Companies/individuals who are evading payment of tax or have failed to lodge tax returns. Consider where the beneficial owner is being disguised to avoid a tax liability, companies that are relatively new or recently set-up and have a significant tax liability and additionally if a large Bounce-Back Loan (£21k +) was obtained, the company was indicating it was trading/expecting to trade above the VAT registration threshold.
11. Refusal or stalling in providing company books and records. When provided are the records complete?
12. Employee records – are these available, have PAYE/Ni deductions been made? Consider specifically Employment Rights Act claims received from directors/former directors. Are there records that clearly show that the director was an employee? Do the claims received correspond with the employment records provided, or do the claims appear inflated? Check employees start dates – particularly where there has been furlough claims made – are these legitimate employees?
13. Significant/large asset owned by an individual/company – are there clear records of where the funds for the purchase originated?
14. Directors' Loan accounts – is the position on the account clear and is there a clear explanation for movements in the balance, especially involving large movements of money – e.g. to personal pension funds?
15. Where on-line initial contact is made, and the proposed client is unwilling to provide adequate identification documentation to allow CDD/EDD to be carried out. IPs are

reminded of Regulation 31 and where CDD/EDD cannot be completed a business relationship must not be established and any existing relationship must be terminated.

The issue is not that you cannot undertake work where there is a higher risk of money laundering, but that you must carry out proper Customer or Enhanced Due Diligence to assess the risks and be able to evidence effective management and mitigation of higher case risks.

Counties/geographic regions

IPs are reminded that there are countries and regions that have been assessed as having a high risk of money laundering and any work with these countries or regions must be treated as high risk.

Reg 33 of the MLR17 (as amended) advises that enhanced due diligence must be applied in any business relationship with a person established in a high-risk third country or in relation to any relevant transaction where either of the parties to the transaction is established in a high-risk third country.

A high-risk third country is a country named on either the high-risk jurisdictions subject to a Call for Action or a jurisdiction under Increased Monitoring published by FATF.

A transaction is advised as a transaction in relation to which customer due diligence is required to be applied and being established is:

- For an individual – being resident in that country – but not merely being born in that country
- For a legal person – being incorporated in or having its principal place of business in that country, or having its principal regulatory authority in that country for a financial or credit institution

The UK Government also publishes a financial sanctions list which has had a number of recent updates due to Russian Sanctions. The list can be reached by clicking [here](#) - if any work is considered where there is a sanction, the work must be treated as a high risk and contact made with OFSI to ascertain if the work can be undertaken and whether any licenses are required to carry out any work.

Training

IPs are reminded to ensure that they and their staff are fully trained on Money Laundering and understand when and how to raise suspicions with the firm's Money Laundering Reporting Officer ('MLRO'). Consideration should also be made as to whether a Defence Against Money Laundering ('DAML') is lodged with the NCA as part of a Suspicious Activity Report ('SAR') submission if potentially tainted funds/assets are held in an insolvency estate to enable the assets/funds to be dealt with as part of the appointment.