



AML Certificate 2020 Guidance Notes

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Relevant work

The services relevant to our AML Certificate are stipulated in Regulation 12 of the UK Money Laundering Regulations-

- (a) the buying and selling of real property or business entities
- (b) the managing of client money, securities or other assets
- (c) the opening or management of bank, savings or securities accounts
- (d) the organisation of contributions necessary for the creation, operation or management of companies; or
- (e) the creation, operation or management of trusts, companies, foundations or similar structures

The questions generally ask about specific services, but for clarity you should never include any numbers pertaining to non-relevant work in this questionnaire. Non relevant work includes criminal defence, divorce and family law, litigation and immigration, for example.

In answering questions on trust work, you should *not* include any executry figures. *(If, in the course of winding up an estate, you form any secondary trusts or carry out any other 'Relevant Work', you must enter these numbers.)*

The Relevant Period

The relevant period covered by questions in this Certificate is 1 January 2020 – 31 December 2020. Only report data which is relevant to that timeframe.

However, to make it easier for you, the question on gross fees should be from your last reported financial year end.

The online portal for submission will not open until February 2021

Who should not complete an AML Certificate

Practices which began after 1 July 2020 should not complete this certificate.

Firms which carry out no 'Relevant Work' should not complete this certificate.

Wholly owned subsidiaries of parent firms should not complete a separate certificate. The parent firm's certificate must include work undertaken by any subsidiary.

If your firm is part of a multi-domiciliary/multinational with a separate legal entity outside of Scotland, you should answer the questions only insofar as they pertain to the entity with the registered address in Scotland. However, where your firm is a parent to any overseas subsidiary with relevant business, you must capture that subsidiary business in this AML Certificate *if the fee goes through the parent entity*.

Subsidiary branches should not complete this certificate *e.g. Yourfirm Trustees Limited, Yourfirm Nominees etc.* The work of these subsidiary companies should be captured in the parent firms AML Certificate.

If you have received a reminder to complete the AML Certificate, but any of the above applies to your firm (or you are unclear regarding any of the above information) you should contact us at aml@lawscot.org.uk

Guidance

You should view the information boxes where they appear as an 'i' next to questions as well as this AML Certificate Guidance booklet before submitting any queries to aml@lawscot.org.uk

You can print a Word version of the certificate here: [\[link\]](#)

Submission

You must not return paper copies as submissions. All submissions must be made via this online portal.

Your submission is due by 23 April 2021.

The online portal for submission will not open until February 2021

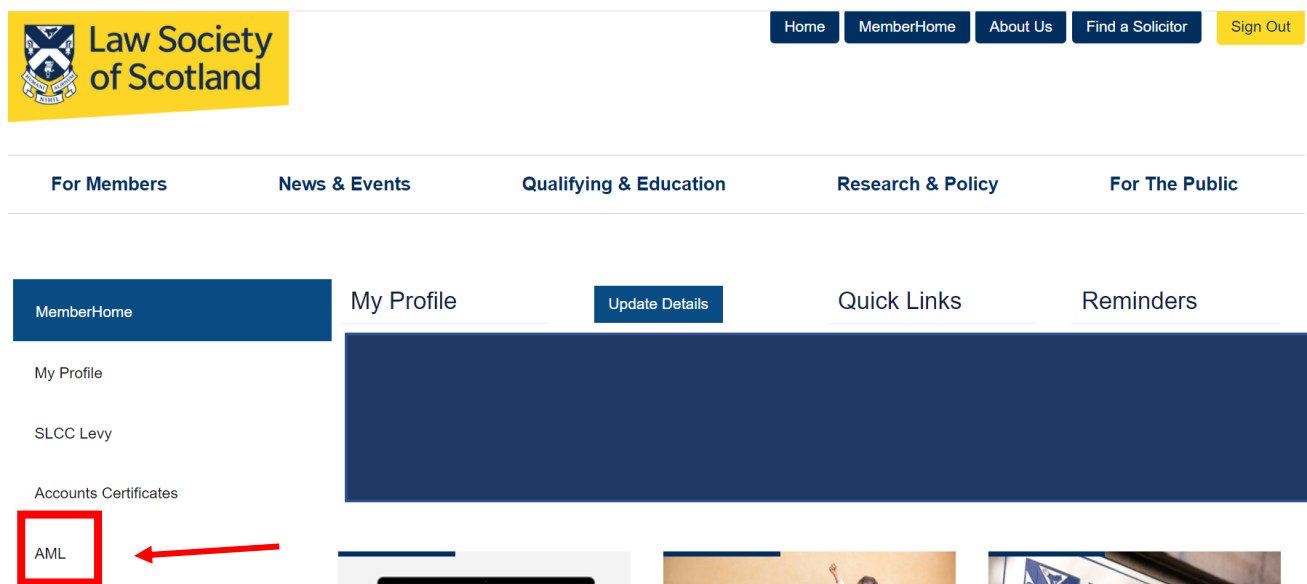


Getting Started

The MLRO is the only member of staff who will automatically be able to access the AML Certificate portal. Another member of staff can be made a delegated person (For details of how to nominate and set up a delegated person, See 'Delegated Person' section in guidance below).

The MLRO should sign into the Members Area of our website using their own personal login credentials, not by using the firm's login credentials.

Using his/her own personal login credentials, the MLRO will then see an 'AML' tab down the left-hand side – see below for illustration:



On clicking 'AML' they will be taken to the general AML portal where they will see an 'AML Certificate' tab.

The online portal for submission will not open until February 2021

MemberHome

My Profile

SLCC Levy

Accounts Certificates

AML

AML TCSP

AML Certificate

Law firms in Scotland must complete an Anti-Money Laundering (AML) Certificate if they fall within scope of AML Regulations. The activity which brings a firm into scope is listed at paragraph 12(1) of the Money Laundering Regulations 2017.

- (a) the buying and selling of real property or business entities;
- (b) the managing of client money, securities or other assets;
- (c) the opening or management of bank, savings or securities accounts;
- (d) the organisation of contributions necessary for the creation, operation or management of companies
- (e) the creation, operation or management of trusts, companies, foundations or similar structures, and, for this purpose, a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction.

The guidance on that page should be considered in tandem with this document before moving on to 'Begin Form'.

Crucially, the first step after clicking 'Begin Form' is to tell us on behalf of which firm you are completing the form.

You should do this by clicking the 'Find Firm' button, as shown below.

Previous Page Next Page 1-Form Go

Contact Info

Submission No 000032

Use the find button to select the firm(OBO)

Sir B... Find

Business Form

General MLRO details

If you do not use the Find button, any answers you enter may be lost. You must 'Find' your firm first.

Once you click on your firm, the box will remain grey but will show your firm.

Be sure to save your progress at regular intervals after using the Find button.

Delegated person

The MLRO will be the only person able to see and access the AML Certificate portal when they sign in. However, the MLRO can set up a 'Delegated Person' by contacting registrar@lawscot.org.uk with the details of that person. The 'Delegated Person' will then have access to the form to help the MLRO complete it, however **only** the MLRO will ever be able to press the 'Submit' button at the end.



Interpretations and other guidance

A note on our questions, guidance and interpretations

The Law Society of Scotland uses the AML Certificate questionnaire to assess inherent AML risk within and across the population. To this end, some brackets, thresholds and interpretations have been set by us in a way which relates *specifically* to our needs. The thresholds and interpretations referred to across the AML Certificate and related guidance should not be taken as indications of their relationship to wider AML obligations. For example, conveyancing between 100k and 1M is not an indication of risk within or below that bracket.

Aborted conveyance

For the purposes of this certificate, any conveyancing matter where client funds were transferred to your client account, but the matter subsequently did not complete.

Board level person

Regulation 21 obliges firms, depending on their size and nature, to appoint a board level person to be responsible for compliance with the Money Laundering Regulations. This is a separate position from the MLRO, though they may be the same person.

Conveyancing

For the purpose of the AML Certificate, any purchase, sale or transfer of title. Do not include crofting related conveyances, discharge of security, re-mortgaging or any conveyancing matter which was aborted **before** funds were transferred (apart from where specifically requested).

Conveyancing – buy to let

Buy to let conveyancing of private residences should be reported in the 'Residential Conveyancing' section, not 'Commercial'.

Buy to let conveyancing of larger commercial spaces should be reported in the 'Commercial Conveyancing' section.

Conveyancing – residential v commercial

Residential conveyancing numbers should include conveyances where the property owner at the end of your matter was using the property as a private residence. To illustrate, if you acted for a landowner in the sale of land to a commercial housebuilder, this is a commercial conveyance.

Executry

Due to the lower risk inherent in executry work, you should not enter any information which relates to executries at your firm. For example, where the AML Certificate questionnaire asks for numbers of trusts formed, you should **not** enter such trust work as undertaken in the disposal of an estate by a will or any deed of variation. (However, secondary trusts instructed on by beneficiaries would be reportable as they are not the direct result of the will.)

Gross fees

While the vast majority of the AML Certificate refers to a specific relevant period, you should enter your last financial year end gross fees.

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Higher risk industries

Understanding the business profile of a corporate client is an important step in risk assessing that client and matter. For the purposes of the AML Certificate, the designated higher risk industries are

- Cash intensive business (including bars, restaurants, taxis, nightclubs, scrap, shops, salons and nailbars, but excluding major brands or publicly listed companies)
- Defence or arms dealers and brokers
- High value / luxury goods
- Extractive industries (including precious metals, oil and gas)
- Shipping
- Gambling
- Money Service Providers / Bureau de Change and similar
- Non-UK Sovereign Wealth Funds / State Owned Companies (excluding publicly listed companies)

We understand that you can only provide this information where you know it. If you do not yet assess these factors as part of your risk assessment, we strongly recommend that you consider this going forward. The nature of a client's business can have implications for your risk assessment.

Non-face to face

For the purposes of the AML Certificate, this should be taken to mean matters where you have not had any face to face contact with the client. Where you have, for example, conducted a video call with the client as part of the identification and verification process, you may consider this as face to face

UK v non-UK

For the purposes of the AML Certificate -

For individuals, this means their place of residence.

For corporates, this means the country in which they are registered.

A trust should be considered 'UK' if the majority of trustees are UK resident **and** the settlor is/was UK resident.

A trust should be considered 'non-UK' if **either** the majority of trustees are non-UK resident, **or** the settlor is/was non-UK resident (or both).

Non-UK ownership

For the purpose of the AML Certificate, references to non-UK 'ownership' or 'ownership structure' should be taken to include *any layer* of the direct beneficial ownership chain which is non-UK – i.e. non UK does not solely mean in relation to the jurisdiction in which the ultimate beneficial owner is resident.

Ongoing TCSP services

Please note that ongoing relationships in trust and company services (registered office, secretarial, nominee shareholder etc.) are reportable in this certificate. Regardless of whether you have interacted with, or charged a fee for these services during the Relevant Period, you are in an ongoing service provision to these clients.

Ownership

Generally, references to ownership or ownership structure should be taken to include **any layer** of the direct beneficial ownership chain, not just the true ultimate beneficial owners as defined in the Money Laundering Regulations. *[See also 'Non-UK ownership']*

Instances where we are asking about the 'beneficial owner' per the regulations will be clearly labelled as such.