

LSS AML Supervisory Risk Appetite Statement

February 2021

Despite the best efforts of the vast majority of the legal profession, money laundering will never be entirely eliminated.

The Society recognises that attempting to pursue or enforce a zero-failure regime across our supervised population is self-defeating, counter-productive and acts against the profession's and wider public interest in terms of access to justice, cost, and the provision of high-quality legal advice.

LSS Strategic Aims:

This statement supports the LSS Strategic aim of **Assure** –

“Our regulation is proportionate and risk-based, building client confidence and a competitive sector”.

Background/Context:

LSS adheres to Regulation 46(2)(a) of the Money Laundering Regulations 2017, which requires professional body supervisors to adopt a risk-based approach to the exercise of its supervisory functions.

Adopting a risk-based approach allows us to be robust, fair and responsible - balancing the commercial realities and the environment in which our members operate with our overarching legal responsibility to ensure our members comply with the Money Laundering Regulations 2017.

Responsibility for the management of AML risk and ensuring regulatory compliance at all times remains with supervised entity.

A Risk-Based Approach to AML Supervisory Resource Allocation & Prioritisation

We will ensure the measures we take to discharge our duties under the MLRs are in proportion to the risks inherent across our supervised population.

We will determine the AML risk profile of our supervised population through the analysis and assessment of data gathered regarding the products/services each firm provides, the client-base they hold, their delivery channels and their geographical reach. This information will be gathered via sources such as our annual AML certificate exercise, our Reporting Concerns hotline and through engagement with 3rd parties such as other supervisors and law enforcement authorities.

We will align the frequency and intensity of our supervision (along with associated resources) towards areas of higher money laundering risk identified within our supervised population.

In practice, this means we will undertake:

- No AML supervisory assurance across those firms we deem to be at low inherent money laundering risk (unless we have been advised of or identified specific matters of regulatory interest or higher inherent AML risk within this population).
- Cyclical AML inspections of medium risk firms, focusing on file or matter compliance with the Money Laundering Regulations. We will also undertake individual file reviews within the medium-risk firm population, where individual clients or matters within this population have been identified as being of inherently higher risk.
- More frequent and intense AML assurance across those firms in our supervised population we have identified as being of higher inherent AML risk. This will include extensive review of AML policies, controls and procedures in light of regulatory requirements, along with sample review of inherently higher risk client or matter files.

A Risk-Based Approach to AML Supervisory Assurance & Associated Outcomes

We will assess the adequacy and effectiveness of AML controls in a holistic manner as set against regulatory requirements, established best practice and the specific inherent AML risks each firm faces.

We will use our supervisory tools and powers effectively and appropriately, and in a way that minimises impacts and supports the application of a risk-based approach to AML control by those that we supervise.

This means encouraging positive outcomes and remediation related to reducing money laundering risk in less serious cases, focusing on high level principles of strong money-laundering control rather than exclusively concentrating on compliance with prescriptive rules.

Non-exhaustive examples of where the Society may recommend remediative action as opposed to regulatory sanction may include:

- One off or non-systemic breaches limited in scope or impact
- Self-reported breaches limited in scope or impact
- Where breaches have occurred in spite of strong preventative controls being deployed
- Proactive and co-operative attitude/conduct of the firm in light of supervisory findings

The Society has no appetite for serious, systemic or egregious breaches of the MLRs. We will take swift, effective and proportionate supervisory action where these are found.

Non-exhaustive examples include:

- Intentional or wilfully negligent breaches of legal requirements in relation to applicable anti-money laundering legislation or regulation
- Repeated unintentional or repeated accidental breaches of legal requirements in relation to applicable anti-money laundering legislation or regulation
- Systemic breaches associated with a lack of senior management engagement or inaction - or the absence of adequate policies, controls or procedures (including requisite training) within the firm.
- Allowing the use of the client account in high AML risk situations where there is no underlying business transaction and where no reasonable explanation/business rationale is given by the firm.
- Facilitating business activities which bear the hallmarks of money laundering activity
- Non-cooperation or refusal to provide sufficient information or documentation to us to demonstrate compliance with applicable anti-money laundering legislation or regulation

Supporting Technology & Innovation

We will encourage the implementation of strong AML controls within our membership and accept that strong control measures may be implemented differently, and in different guises, depending on the size, nature, risk profile or business model of the regulated entity. These can also be different across comparable businesses - there will be more than one 'right' answer to the same problem.

We therefore welcome and proactively seek to foster innovation and technological advancement within the legal marketplace and will work collaboratively with stakeholders to achieve this, where our resources allow.

We acknowledge and accept that such an approach carries risk – we look to assure that such risks have been considered and adequately mitigated by those in scope of our supervision.