



Law Society
of Scotland

REGULATION - SENSITIVE

Anti-Money Laundering Supervisory Report 2023

October 2023



Contents

- 1. Foreword from Law Society of Scotland CEO, Diane McGiffen**
- 2. Context to this Report**
 - Our Key Regulatory Requirements
 - The Office for Professional Body Supervisors (OPBAS)
- 3. Our AML Supervisory Work**
 - AML Team – Resourcing Changes & Structure
 - AML Team Mission Statement & Objectives
 - The AML Certificate & our Risk-Based Approach to Supervisory Assurance
 - Continual Improvement of the AML Certificate Process
 - The Scottish Legal Profession – Inherent Risks & Risk Profile
 - AML Assurance
 - Risk-Based Assurance Processes in Detail
 - Inherently High – High/High Risk Rating Assurance Processes
 - Inherently Medium – Medium/High Risk Rating Assurance Processes
 - Inherently Low/Low – Low Risk Rating Assurance Processes
 - Intelligence-based AML Supervisory Assurance
 - Thematic Reviews
 - Supervisory Assurance Volumes
 - High Risk Rating Assurance volumes
 - High-risk Single File review volumes
 - Medium Risk Rating Assurance volumes
 - Low Risk Rating and Thematic Assurance volumes
 - Supervisory Assurance Ratings and Outcomes
 - Assurance Compliance Ratings

High Risk Assurance Ratings

Single File Review Ratings & Disciplinary Outcomes

Low Risk and Thematic Assurance Outcomes

Assurance – General Observations

Continuing Supervisory Action to Address Weaknesses

4. Response to Financial Sanctions Regimes

5. AML Training, Competency & Continuous Improvement

External Training

Additional Training

6. Intelligence Sharing & Participation in National AML Supervisory Forums

7. Reporting Breaches & Concerns

8. Suspicious Activity Reporting by The Law Society of Scotland

9. Guiding the Profession

10. Supervisory Reform, Continuous Improvement & A Look Ahead

Economic Crime Reform

Continual Improvement

A Look Ahead into 2024

1. Foreword from Law Society of Scotland CEO, Diane McGiffen

Money laundering is a crime that wrecks communities and societies and is a threat to each and every area where we live and work.

The Law Society of Scotland remains resolutely committed to modern, effective anti-money laundering (AML) supervision. Our AML team continues to undertake a range of risk-based, proportionate measures to ensure our members meet the highest legal and ethical standards in this area of practice, and public trust in the profession is upheld.

As AML compliance across the profession continues to mature, our AML team has further expanded the scope, reach and type of supervisory assurance undertaken, while balancing the needs of inherently lower risk practices. This has included, for example, our thematic review of AML Policies, Controls and Procedures.

This report demonstrates the strength and depth of our AML work, along with a range of effective outcomes, including the robust use of disciplinary action where necessary.

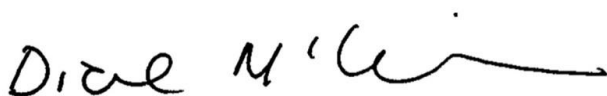
We also provide a breadth and depth of information and guidance available to the profession to support them in their AML and economic crime obligations. In the last year, this has included new articles on cryptocurrency risks and money laundering risks relating to Chinese indirect investment activity, along with new policy and risk assessment templates, and a number of new Frequently Asked Questions. We have added information to our financial sanctions webpage, with updates from the UK Government, and we continue to expand our outreach work through webinars, local visits and conference presentations.

Looking forward at 2024 – we await a decision being made by the UK government about AML supervisory reform and will work collaboratively with relevant stakeholders to act in accordance with this decision. In [our consultation response](#), we expressed support for further powers to be given to the Office of Professional Body AML Supervision (OPBAS), if those powers would lead to increased effectiveness, and we did not oppose reform consolidating anti-money laundering supervision on a devolved basis.

We will also launch a new thematic review of Suspicious Activity Reporting across the Scottish legal profession, and will enhance our proactive review work, realising the benefits of new data sharing agreements signed recently with Police Scotland and HMRC.

Thank you for taking the time to read about the anti-money laundering work the Law Society of Scotland undertakes in the public interest. I am proud of the work our dedicated AML team undertakes and hope this report is helpful in explaining this in more detail.

Yours sincerely,



Diane McGiffen (CEO)

2. Context to this Report

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (MLRs or “The Regulations”) set administrative requirements for the anti-money laundering regime within the regulated sector.

MLR r.12 states that the regulations apply to 'independent legal professionals', that is:

“a firm or sole practitioner who by way of business provides legal or notarial services to other persons, when participating in financial or real property transactions concerning—

- (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 Law Society of Scotland is the Professional Body AML Supervisor for Scottish solicitors - this status has been ratified by His Majesty's Treasury through Schedule 1 of the MLRs and is discharged through the use of the Solicitors (Scotland) Act 1980.

MLR r.46A sets out the basis and requirement for this report:

Prescribing that self-regulatory organisations such as the Society must also publish an annual report containing information regarding:

- *measures taken by the self-regulatory organisation to encourage the reporting of actual or potential AML breaches;*
- *the number of reports of actual or potential breaches received by that self-regulatory organisation;*

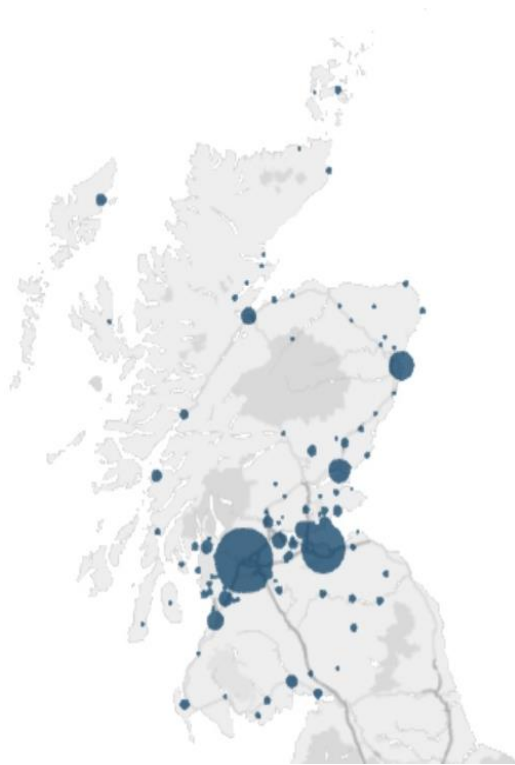
the number and description of measures carried out by the self-regulatory organisation to monitor, and enforce, compliance by relevant persons with their obligations the MLRs, the Terrorism Act 2000 (TA) and the Proceeds of Crime Act 2002 (POCA).

This report follows our last report published in October 2022. It highlights key changes and enhancements we have made to our supervisory approach, along with the work we have undertaken to fulfil our obligations under the regulations during the reporting period.

Overview of our Supervised Population:

For the relevant period of April 2022 – April 2023, our supervised population comprised of **686** practices.

The majority these are sole practitioners or smaller partnerships operating across of Scotland – in urban, semi urban, and rural areas. Roughly **20%** of the population can be found in the Glasgow area with roughly **15%** in the Edinburgh area. Other areas of larger population include, Aberdeen, Dundee, Fife, Perth, Inverness & Ayr (*This is demonstrated in the below graphic*)



The majority of our population (**c.85%**) operate with between **1-12** partners and employees. Practices range from takings of minimal AML related fees to over **£70,000,000**.

89% of the population self-assess their inherent AML risk level as Low & Medium Risk, **11%** considering themselves to have a High Risk of inherent AML risk. This has been demonstrated in a graph on page 11 of this report.

These figures largely correspond with LSS' own internal assessment of AML inherent risk ratings of Practices – i.e., roughly the Practices that we deem to be Low, Medium, or High risk correspond with their own risk ratings .

The practices offer a range of legal services, usually centred around conveyancing, but also wills/executory, Power of Attorney, tax, trusts, and succession planning. Some practices (particularly larger and “niche” practices) also undertake work involving specialist trust and company service provision, work in the corporate law space or undertake work in agriculture or with large rural estates.

Our annual AML Certificate process requests information on practices' interactions with individual private clients and legal entities inside and outside the UK – primarily across conveyancing & TCSP activities.

This annual exercise shows that the supervised population has a considerable global reach, inclusive of high risk and secrecy jurisdictions such as Bahamas, Bermuda, British Virgin Islands, Cambodia, Isle of Man, Pakistan, and the United Arab Emirates, for example.

94 practices completed work with a touchpoint with a High Risk Third Country for the relevant period, with **26** completing work with a nexus to what could be considered "secrecy" jurisdictions such as Bahamas, Bermuda, British Virgin Islands, Cayman Islands, Cyprus, or Gibraltar for example. These range from client's residing in, corporates incorporated in or ownership structures extending to or through these jurisdictions.

Our Key Regulatory Requirements

MLR r.46 sets out the Society's primary duties and responsibilities in respect of AML supervision, including:

- *adopting a risk-based approach to the exercise of its supervisory functions;*
- *basing the frequency and intensity of its on-site and off-site supervision on the risk profile of our supervised population;*
- *keeping a record in writing of the actions it has taken in the course of its supervision, and of its reasons for deciding not to act in a particular case;*
- *taking effective measures to encourage its own sector to report breaches of the provisions of these Regulations to it.*

MLR r.49 sets out further duties upon the Society:

"Self-regulatory organisations must make arrangements to ensure that:

- *their supervisory functions are exercised independently of any of their other functions which do not relate to disciplinary matters;*
- *sensitive information relating to the supervisory functions is appropriately handled within the organisation;*
- *they employ only persons with appropriate qualifications, integrity, and professional skills to carry out the supervisory functions;*
- *contravention of a relevant requirement by a relevant person they are responsible for supervising renders that person liable to effective, proportionate, and dissuasive disciplinary measures under their rules".*

"Self-regulatory organisations must:

- *provide adequate resources to carry out the supervisory functions;*
- *appoint a person to monitor and manage the organisation's compliance with its duties under these Regulations."*

The Office for Professional Body Supervisors (OPBAS)

In January 2018, new regulations gave rise to the set-up of OPBAS, with the aim of improving the consistency of AML supervision across the 22 Professional Body Supervisors (PBS). OPBAS sets out guidance and its expectations of PBSs in performance of their duties under the MLRs, in the form of the 'OPBAS Sourcebook' – which the Society must also adhere to. We are also subject to ongoing review by OPBAS regarding our own AML supervisory work – we support and welcome this oversight and have developed a professional, positive and constructive working relationship with them.

3. Our AML Supervisory Work

AML Team – Resourcing Changes & Structure

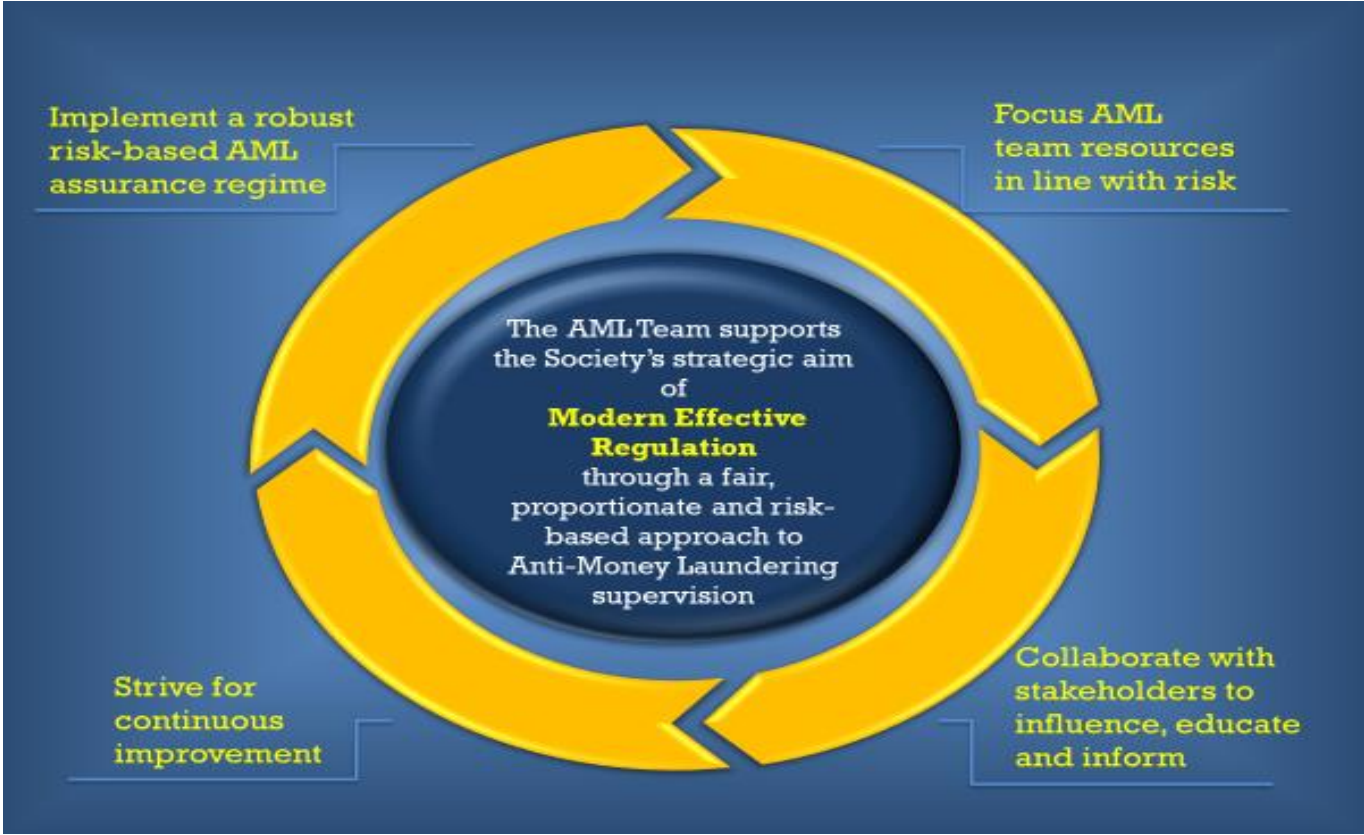
In the past year, the team has experienced a small turnover in staff, with one AML Manager leaving the organisation in late 2022. This departure resulted in a change in the team's composition and responsibilities. The Society addressed this and minimised impact on our supervisory work by ensuring knowledge transfer and adequate training was in place. We have successfully recruited a new member of the team from within the Legal Sector, who assumed the position in May 2023.

This keeps our dedicated AML team at a headcount of five full time staff. This consists of the Head of AML and four AML managers, responsible for AML supervisory and assurance work across the profession.

The AML team is embedded within (and supported by) the Society's wider Financial Compliance and Regulatory functions and prioritises assurance and other supervisory activity on a risk-based approach – in line with responsibilities under **r.46**.



AML Team Mission Statement & Objectives



The AML Certificate & our Risk-Based Approach to Supervisory Assurance

The Society's AML Certificate is a compulsory annual questionnaire issued to practices which conduct work in-scope of **r.12** of the Money Laundering Regulations (MLRs).

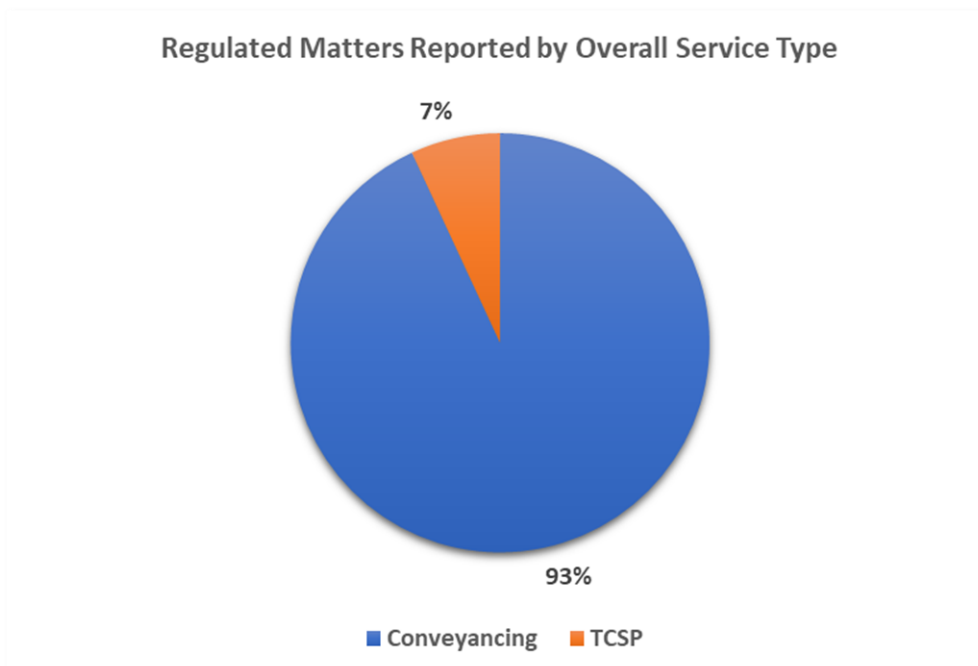
It consists of c.70 questions relating to inherent AML risk factors in line with the MLRs, the UK National Risk Assessment and our latest refreshed Sectoral AML Risk Assessment.

The certificate focuses on a practice's exposure to inherently higher risk clients and higher-risk areas of practice such as Conveyancing and Trust & Company Service Provision - along with capturing and identifying geographic and delivery channel risks.

Once collected, the data is analysed by the AML team, it is used to build a risk profile of our supervised population and allow us to understand specific AML risks, trends, or issues across the supervised population.

This profiling mechanism supports the Society in satisfying requirements of **r.46** – i.e., to adopt a risk-based approach by basing the frequency and intensity of our supervision according to the risk profile of our supervised population.

The analysis of AML Certificate information gives us the ability to identify overall trends within our supervised population. An example of this is shown in the below chart which evidences from our analysis that conveyancing transactions (residential and commercial) accounted for **93%** of all AML regulated matters reported with TCSP work accounting for **7%**.



Continual Improvement of the AML Certificate Process:

As per the Annual Report 2022, our AML Certificate profiling process has been further improved with the inclusion of new and additional risk identifiers aligned to our latest refreshed Sectoral Risk Assessment.

Alongside consideration of higher risk work types, these identifiers were coupled with other risk factors/red flags, helping to create a “multiplier effect” and ensure an even greater focus is put on those types of clients/areas of work viewed as the greatest inherent AML risk. Examples include:

- Identification of practices which have engaged with higher risk jurisdictions on any matter type. Using information such as the UK HM Treasury High Risk Third Countries List, The Basel Index and The EU AML High Risk Jurisdictions list.
- Identification of practices who have provided higher risk services such as conveyancing coupled with a nexus to a higher risk jurisdiction.
- Identification of practices who have engaged with Politically Exposed Persons (PEPs) where there is also a link to a higher risk jurisdictions.
- Identification of practices who have provided Trust and Company Service Provisions to privacy jurisdictions.

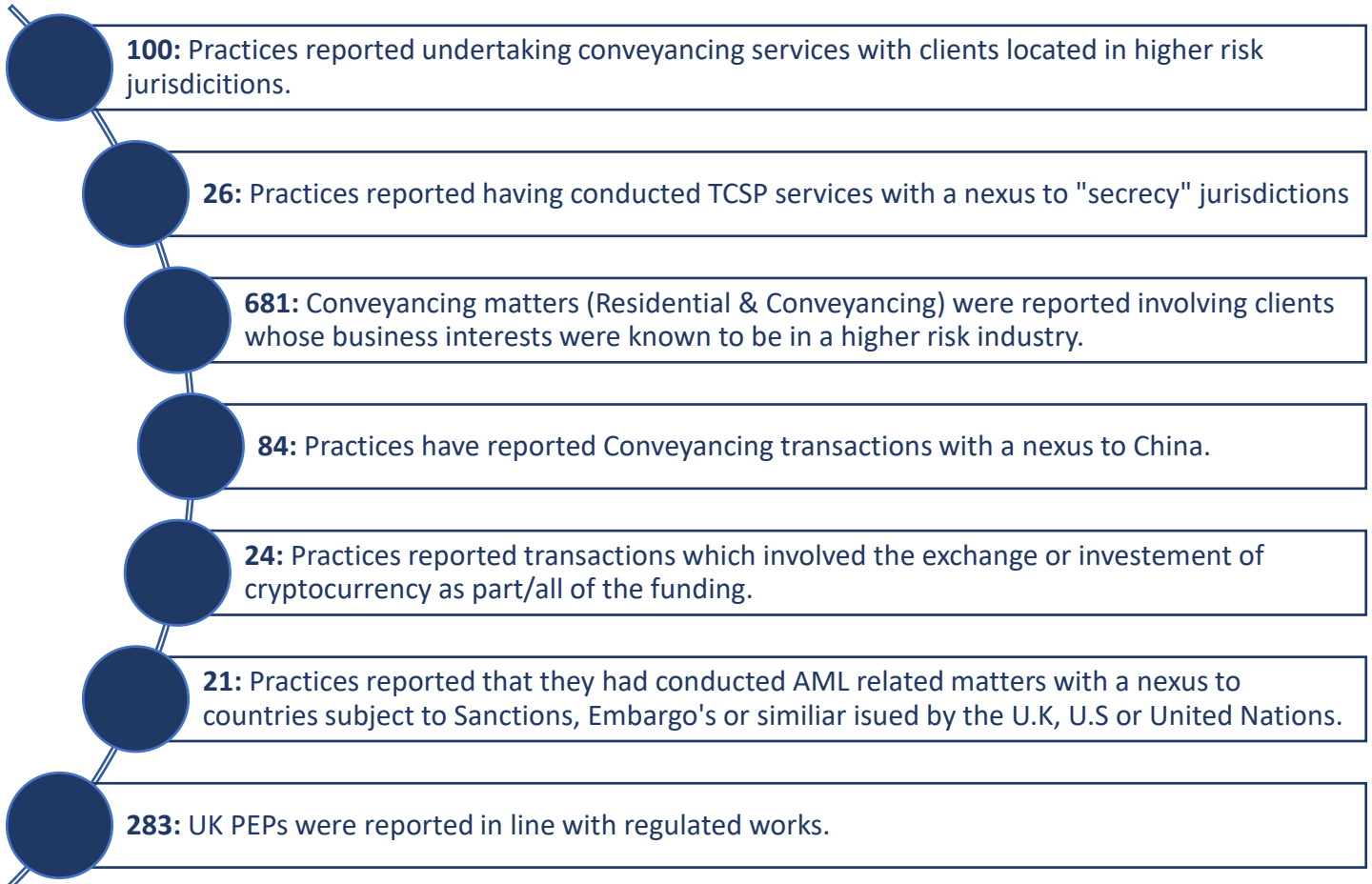
The additional risk flags within the AML Certificate analysis also allows for the identification of more sophisticated and granular risk ratings (*7 bandings from Low-Low to High-High*) across the population which has allowed the AML team to apply a more targeted risk-based approach to our assurance - deploying different assurance methods and approaches such as attestations, thematics and desk-based engagements to different segments across the population.

The Society sets out our overarching approach to risk-based supervision and associated outcomes in ¹.

¹ <https://www.lawscot.org.uk/media/370492/law-Society-of-scotland-aml-risk-appetite-statement-february-2021.pdf>

The AML team produce a yearly infographic outlining key statistics and figures from our AML Certificate returns. The AML Certificate 2021 Infographic can be located here: [AML Certificate Results 2021 | Law Society of Scotland \(lawscot.org.uk\)](https://www.lawscot.org.uk/aml-certificate-results-2021)

A number of key statistics our AML Certificate 2022 include:



These figures and more will be presented to the profession in our annual AML Certificate Results Infographic in the coming months.

The Scottish Legal Profession – Inherent Risks & Risk Profile

681 AML Certificate returns were received for the AML Certificate 2022 (*relevant period - 1st January 2021 – 31st December 2021*).

12 practices who failed to submit their certificate by submission deadlines have been reported to the AML Sub-Committee and were subsequently referred for complaint for breach of rule B9.5 of the Law Society of Scotland Practice Rules.²

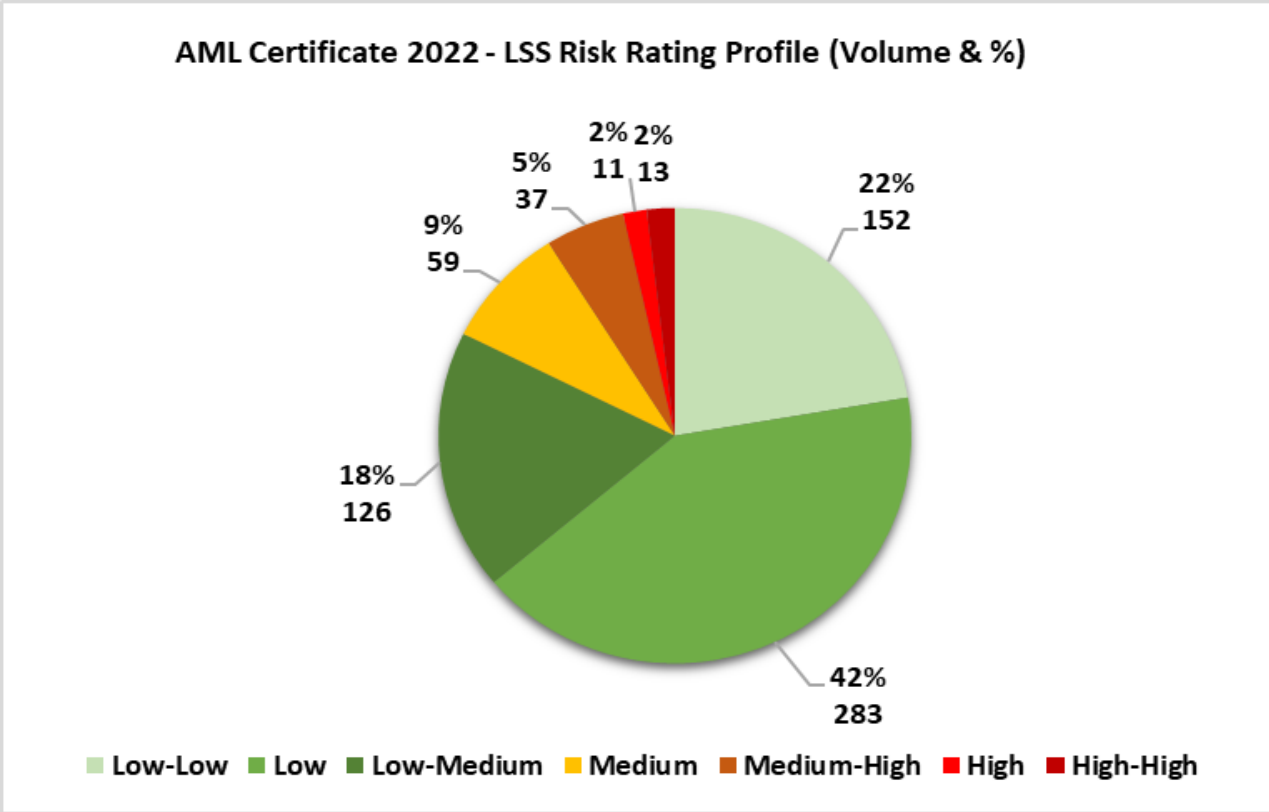
7 of those initially non-responding practices subsequently provided paper copies of their AML Certificate data which has been recorded in the overall returns.

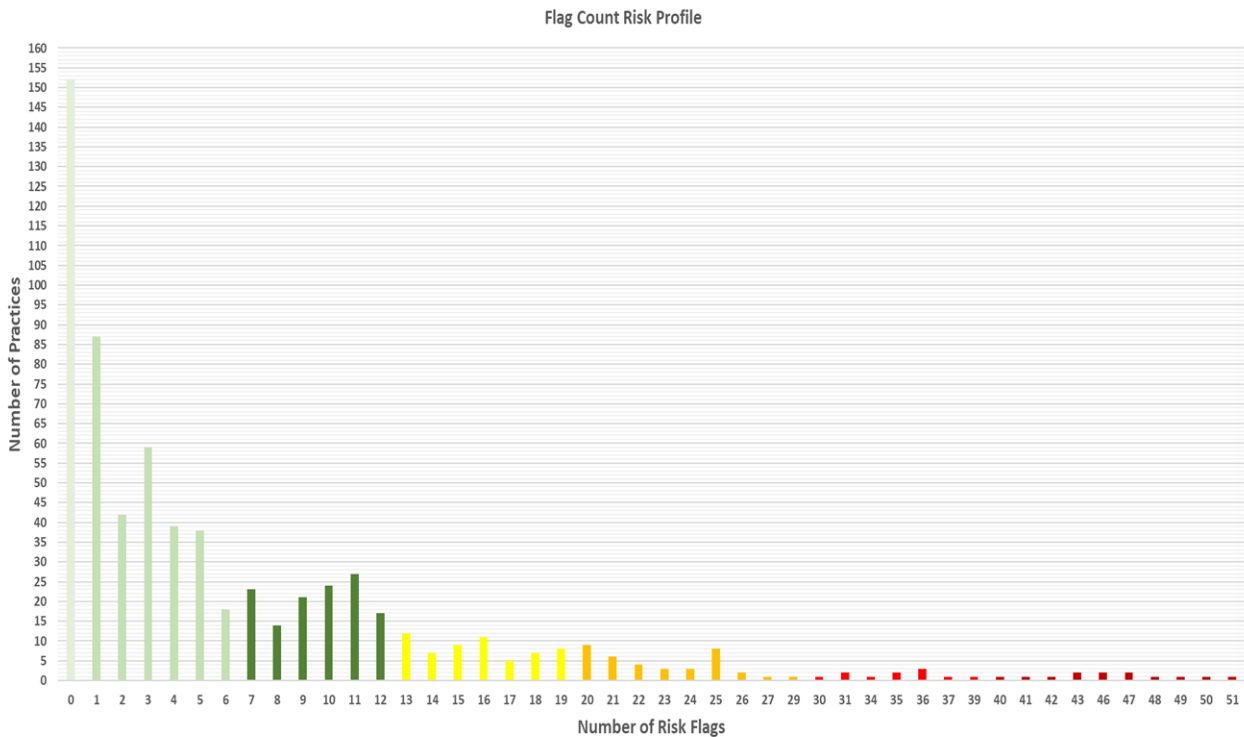
1 MLRO, whose practice failed to submit a certificate from the AML Certificate Period 2021 was invited by the AMLSC for a formal disciplinary interview under Section 40. Following the conclusion of the AMLSC interview it was determined that a complaint against the MLRO would be put to the Scottish Legal Complaints Commission regarding the breach of rule B9.5 of the Law Society of Scotland Practice Rules 2011 and to include the practice unit in any further low risk assurance processes carried out by the AML team.

All practices deemed to have failed to meet the initial deadlines set by the AML team at LSS have been recorded and all non-responding practices are to be factored into future risk profiling exercises.

² [https://www.lawscot.org.uk/members/rules-and-guidance/rules-and-guidance/section-b/rule-b9/rules/rule-b9-money-laundering-terrorist-financing/#:~:text=\(b\)%20no%20regulated%20person%20within,comply%20with%20any%20such%20provision.](https://www.lawscot.org.uk/members/rules-and-guidance/rules-and-guidance/section-b/rule-b9/rules/rule-b9-money-laundering-terrorist-financing/#:~:text=(b)%20no%20regulated%20person%20within,comply%20with%20any%20such%20provision.)

Through analysis of the returns, we have built a risk profile of the supervised population as per the below charts/graphs (These charts reflect the risk profile of the 681 practices which returned AML Certificates for 2022)





AML Assurance

Risk-Based Assurance Processes in Detail

The risk-based nature of our general AML assurance work is designed to support our effectiveness – focusing our resources in areas of inherent higher risk - and also ensure our impact on practices under inspection is minimised, and as efficient as possible.

In accordance with the provisions of r.46, the AML team base the frequency and intensity of assurance work according to the risk profiles developed in the AML Certificate process – as detailed in this report.

Initial findings of our assurance work/inspections can be widened or narrowed in scope of activity where required: I.e., where a practice is deemed to be of inherently higher risk however, throughout the course of inspection is found to be lower risk, the scope of the assurance activity/inspection can be altered to reflect these findings.

Inherently High – High/High Risk Rating Assurance Processes

Depending upon the circumstance and specific risks identified and highlighted via the certificate, assurance reviews can encompass full-practice assurance reviews or be more focused on specific clients, matters or areas of a practice’s business.

Full assurance reviews aim to test the adequacy of the practice’s: Practice Wide Risk Assessment (PWRA), Governance and Policies, Controls and Procedures (PCPs). To do this we measure compliance against fundamental regulatory requirements and the HM Treasury-approved Legal Sector Affinity Group AML Guidance (LSAG), specifically its 36 High-Level AML Compliance Principles.

The full assurance review process also goes on to review the effectiveness of the practice's AML controls 'on the ground', by testing adherence to the requirements and their own PCP's through a review of selected client/matter files, specifically those of higher risk.

AML Certificate returns form the basis of client/matter file selection and allow the AML team to sample in accordance with our risk-based approach, effectively and efficiently, whilst focusing on higher-risk or other matters of interest from an AML perspective.

Further, the full assurance review process contains an overall assessment of the AML control effectiveness including culture, expertise & awareness, quality of training and governance at the practice. We conduct supervisory interviews of the MLRO/MLCO, key partners and members of staff to assist us in this assessment.

Findings from such reviews will also be fed back into future inspection planning and modelling.

Inherently Medium – Medium/High Risk Rating Assurance Processes

Practices deemed to have Medium – Medium/High inherent AML risk profiles can also subject to assurance reviews/inspections; however, these are often undertaken by members of the wider Financial Compliance Team on an ongoing basis as part of the onsite Financial Compliance team Client Account inspection processes.

These inspections are a very important element of our overall regime and focus predominately on file-level AML compliance in the context of wider client accounting matters. Where issues are identified which may indicate higher AML risk, these can be highlighted and escalated to the AML team who can apply the appropriate risk assurance procedure.

Practices rated Medium – Medium/High Risk may also be subjected to Single File assurance reviews. This process involves the testing of adherence to the requirements set out in fundamental regulatory requirements and LSAG.

Certain client/matter files can be selected for review and sampled by the AML team in accordance with our risk-based approach, effectively and efficiently, whilst focusing on higher-risk or other matters of interest from an AML perspective. This may be in place of undertaking the full practice assurance review which may be reserved for those deemed to be of inherent higher risk.

Again, the AML Certificate returns assist with file selection, with a focus placed on indicators of higher inherent risk such as higher risk jurisdictions or service types or combination of services/risks.

Inherently Low/Low – Low Risk Rating Assurance Processes

Whilst practices deemed to have risk profiles of lower inherent risk of money laundering rated Low/Low – Low risk are not often subject to in-depth or full assurance reviews such as those in the categories *Medium – High/High*, the AML team ensures appropriate assurance activities are applied where applicable to practices within these risk bandings.

Assurance activities at this level of inherent risk can involve:

- Non-AML specialist Financial Compliance Team assurance reviews. These are centred around ensuring key AML policies are in place and fit for purpose (*N.B. In line with Financial Compliance Team Assurance reviews in the Medium – High Risk category these can be escalated to the AML team for specialist input where required*)
- Reviewing information provided within AML Certificate returns and conducting follow up conversations with practices to corroborate information where deemed applicable.
- Requirement to submit Low-Risk Supervisory Attestations followed by sample-based reviews of information attested to.
- Sampling of “AML Exempt” practices using open and closed source information. Practices found to appear in scope whilst presenting as exempt from regulatory requirements are engaged with, using varying assurance techniques.
- Potential for single AML File Reviews in line with those detailed under the heading for Inherently Medium – Medium/High Risk Rating Assurance Processes

Intelligence-based AML Supervisory Assurance

Along with assurance work generated according to the risk profiles developed in the AML Certificate process, we also target other areas of concern which have been appropriately and legitimately highlighted to us through intelligence sharing - for example via law enforcement and our reporting concerns helpline.

Currently the AML team have several such inspections ongoing which have either been identified through our data analysis from AML Certificate returns and also via intelligence sharing pathways.

Thematic Reviews

Thematic reviews are another tool which the AML team utilise to assess and identify specific AML risks and the robustness of AML controls within our regulated population. These reviews will be undertaken across a number of Practices selected from existing data held and will help establish and build our knowledge of risks/controls within the sector

Broadly, thematic reviews will consist of:

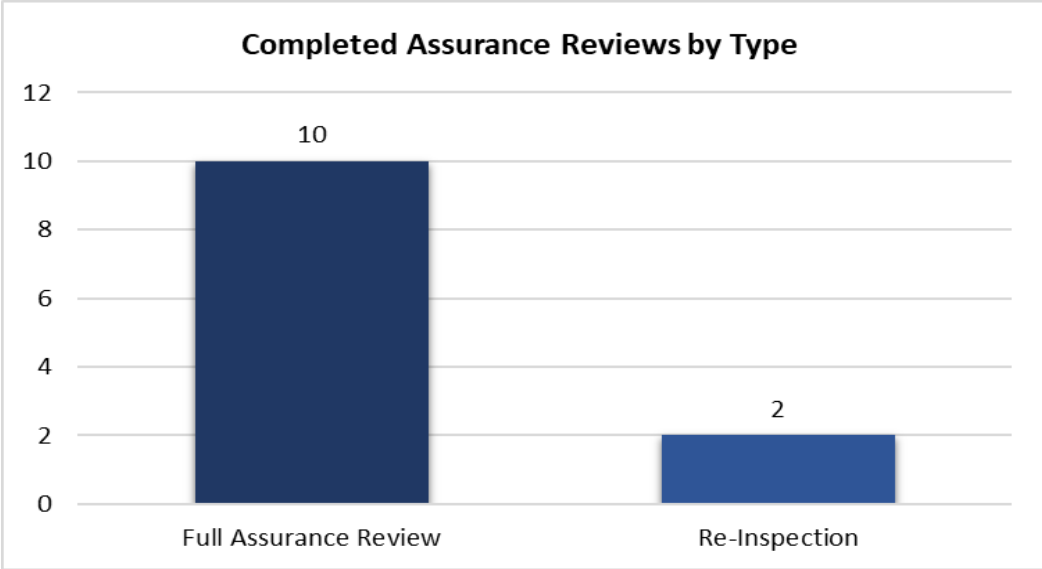
- The development of a structured questionnaire around a particular AML topic.
- Questionnaires circulated to a limited number of practices identified through AML Certificate responses or other data held by the AML team.
- Responses to the questionnaire will be reviewed and analysed.
- Individual practices may then be subject to further engagement such as: the sampling of files or information obtained throughout the thematic process.
- Overall findings and results will be documented with high level findings, and outcomes will be published in order that the wider supervised population benefit and have the information necessary to mitigate risks or issues found.
- Utilisation of tools such as a targeted “Dear MLRO” letter, where open feedback can be undertaken to the wider population.

The Team recently published the results of their AML Thematic Review of Policies, Controls and Procedures which can be found [HERE](#). We have recommended that all practices in scope of our supervision fully consider the findings of this report and review their AML PCPs accordingly. The AML team was encouraged by some of the data identified through this thematic review. However, a number of areas requiring improvement were highlighted.

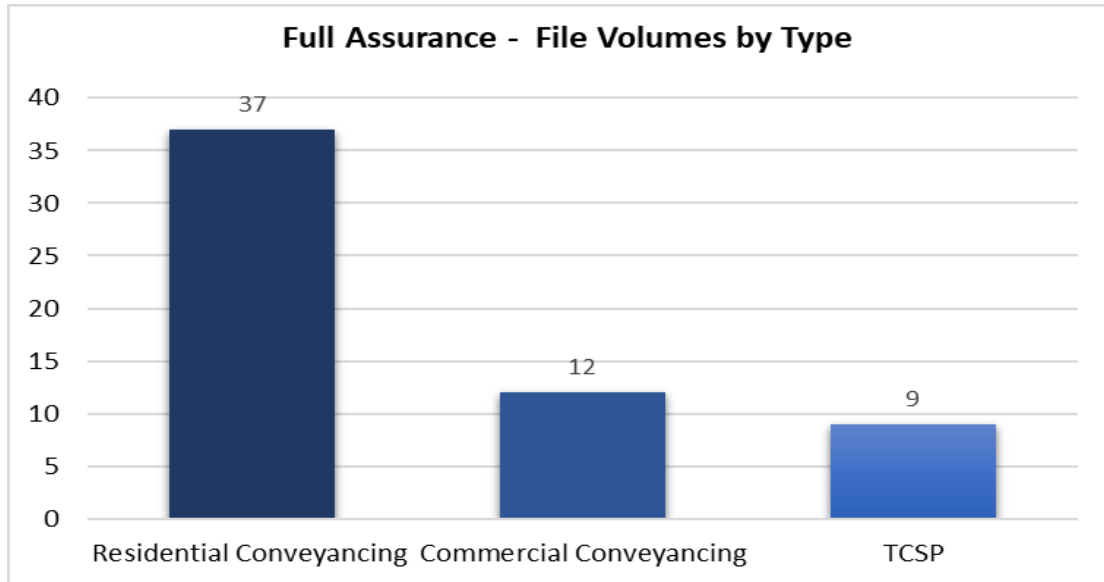
Supervisory Assurance Volumes

High Risk Rating Assurance volumes

From April 2022 to April 2023 the AML team conducted **12** high-risk assurance reviews. This figure included **10** full assurance reviews, and **2** re-inspections as documented in the below chart. These reviews were driven by either risk profiling or received intelligence.



As part of the **12** full assurance reviews the effectiveness of the practices AML controls 'on the ground' was tested, through a review of selected client/matter files across **58** files in the following categories:

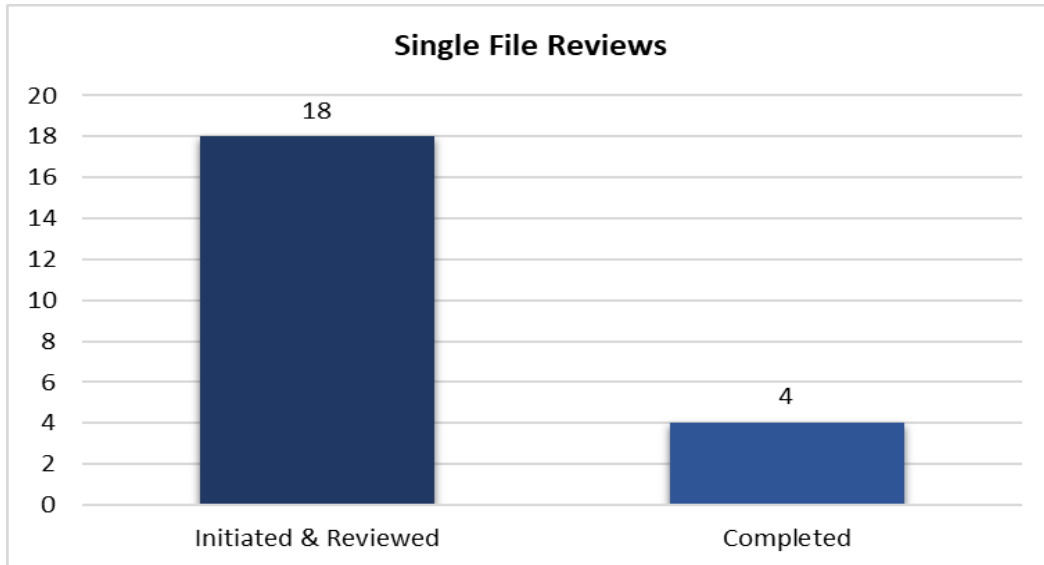


In addition to the **12** completed inspections, the AML team also initiated an additional **5** assurance reviews within this relevant period and these will be included in figures reported within the 2024 Annual Report.

High-risk Single File review volumes:

In the same period the AML team also initiated **22** Single File reviews out with the full assurance review process.

18 of these potential Single File Reviews were triaged and either added to the pipeline to be reviewed or deemed to require no further action, **4** Single File Reviews were completed during the period.

Medium Risk Rating Assurance volumes

From April 2022 to April 2023 **c.45** practices were subject to assurance reviews undertaken in line with the Financial Compliance team Client Account inspection process.

These inspections were either conducted on-site or partially on site later within the process dependent on the risk ratings of the practices and initial findings of the review.

Low Risk Rating and Thematic Assurance volumes

From April 2022 to April 2023 the AML team gathered **77** Low Risk Attestations from practices as part of lower risk assurance.

40 practices were engaged in relation to the AML Thematic Review of Policies, Controls and Procedures

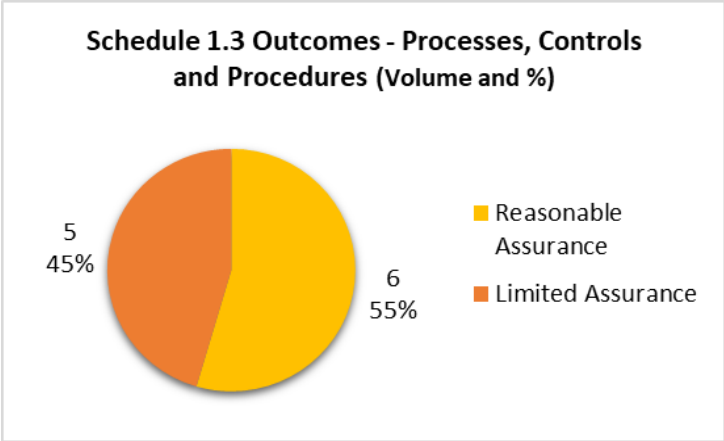
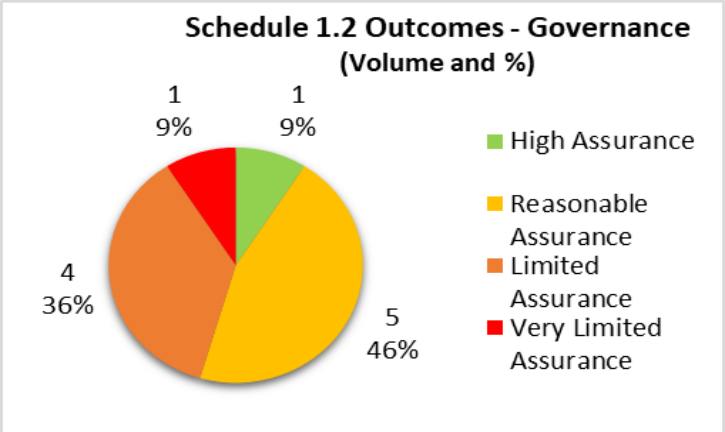
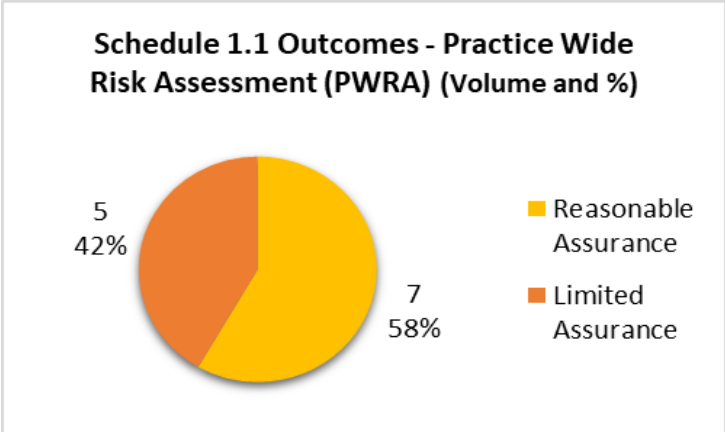
Supervisory Assurance Ratings and OutcomesAssurance Compliance Ratings

The AML team grade the varying levels of compliance relating to the assurance processes such as Full Assurance Reviews and Single File Reviews. These are categorised as:

High assurance	There is a high level of assurance that the documentation reviewed is delivering compliance against the AML requirements, duties or responsibilities of the Practice Unit. The review has identified only limited scope for improvement in existing arrangements and as such it is not anticipated that significant further action is required to reduce the risk of non-compliance.
Reasonable assurance	There is a reasonable level of assurance the policy, control or procedure reviewed is delivering compliance against the AML requirements, duties or responsibilities of the Practice Unit. The review has identified some scope for improvement in existing arrangements to reduce the risk of non-compliance with these requirements
Limited assurance	There is a limited level of assurance that the policy, control, or procedure reviewed is delivering compliance against the AML requirements, duties or responsibilities of the Practice Unit. The review has identified considerable scope for improvement in existing arrangements to reduce the risk of non-compliance with these requirements.
Very Limited Assurance	There is a very limited level of assurance that the policy, control, or procedure reviewed is delivering compliance against the requirements, duties, or responsibilities of the relevant MLRs. The review has identified a substantial risk that the objective of MLR compliance will not be achieved. Immediate action is required to improve the control environment.

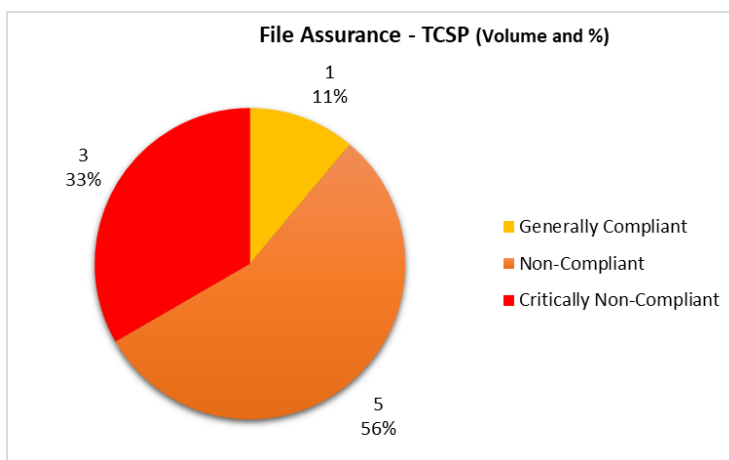
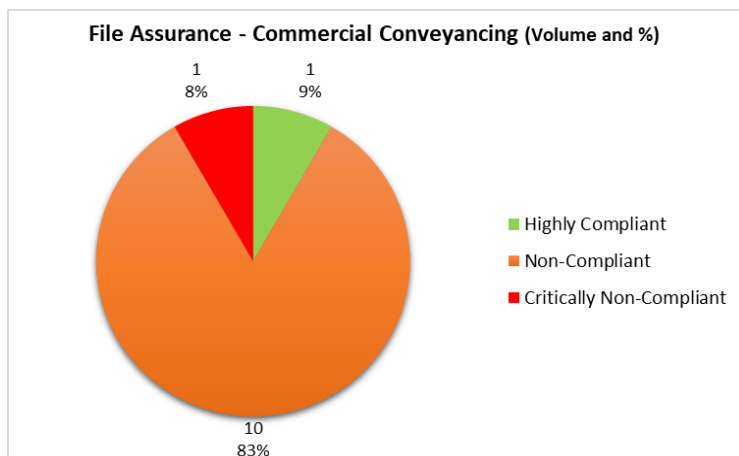
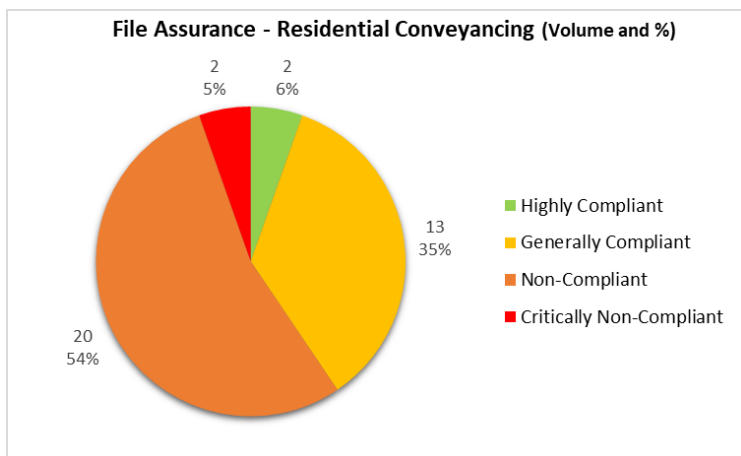
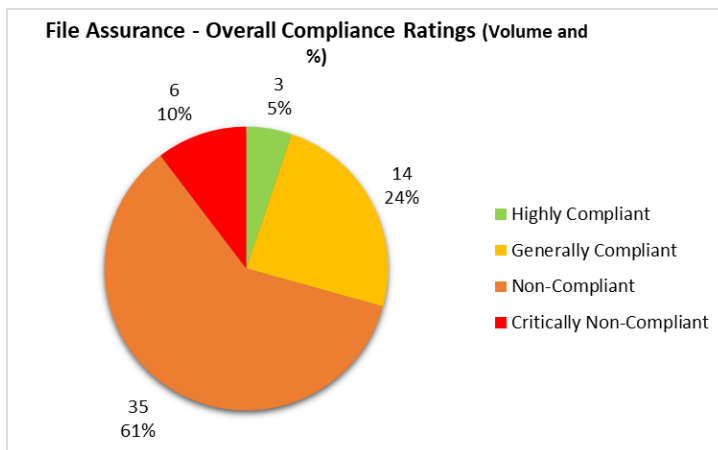
High Risk Assurance Ratings

Across the **12** full assurance reviews and **2** re-inspections conducted in the reporting period, the below graphs demonstrate the spread of assurance gradings in relation to practices Practice Wide Risk Assessment, Governance and Policies, Controls & Procedures:



These **12** reviews included **56** file reviews undertaken across higher risk areas of Residential & Commercial conveyancing and Trust and Company Services such as, Provision of Registered Office/Company Secretary.

The below graphs demonstrate the spread of assurance gradings in relation to file assurance ratings and also as split by file type.



High-Risk Disciplinary Outcomes:

When the AML team is deciding whether or not to refer practices to AMLSC, relevant factors are considered such as the size, nature and risk profile of the practice, the duration of any non-compliance findings, the attitude/conduct of the practice in light of the findings and assurance process and, any previous findings, amongst other factors.

These factors are also used by AMLSC in determining outcomes of their deliberation, including any disciplinary sanction.

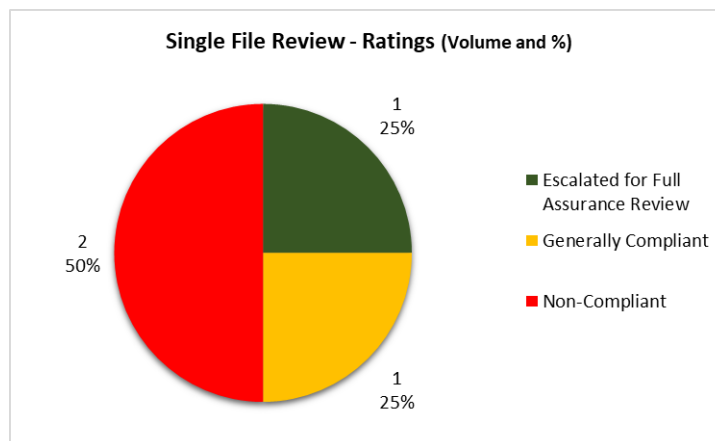
- **9** Practices subjected to the full assurance reviews or re-inspections were referred to the Society's AML sub-committee (AMLSC). This resulted in:
 - **3** practices having a referral of complaint against their MLRO,
 - **1** MLRO being invited for an informal interview,
 - **1** practice - future re-inspection
 - **4** no further action.
- All 12 inspections (9 referred to AMLSC + 3 not referred) were also subject to a programme of timed remediation overseen by the AML team.
- **1 was** also included within pipeline work to have a limited scope re-inspection undertaken in relation to potentially High-Risk matters/files.

Single File Review Ratings & Disciplinary Outcomes

4 Single File Assurance reviews (undertaken as standalone reviews out with the full high risk inspection process) were completed.

Of the **4** files reviewed **3** related to Residential Conveyancing (ratings of Generally Compliant or Non-Compliant) and **1** was identified through Financial Sanctions-related engagement (escalated for a full assurance review).

The below graph demonstrates the spread of assurance gradings in relation to these reviews.



Outcomes:

- **2** Practices subjected to Single File assurance reviews were referred to the Society's AML sub-committee (AMLSC). This resulted in **1** practice being provided further advice and comment from AMLSC and **1** practice being provided further advice and comment as well as recommendation to be included within the AML teams PCP Thematic.
- A further **18** Single File Reviews were triaged by the AML team by obtaining and scrutinising further information from the Practice , with no further action undertaken following this process. In each of these instances however, the practices were provided further advice and guidance relating specifically to the matters/files reviewed.

Low Risk and Thematic Assurance Outcomes

Outcomes:

- **14** Reviews of Low-Risk Attestations documentation obtained from practices in lower risk categories have been conducted with advice and guidance provided to the practices.
- **40** Dip Sample checks of practices Policies, Controls and Procedures (PCP's) which were conducted following information obtained through the PCP Thematic with individual overall findings and results provided back to the participating practices.

Assurance – General Observations

The Law Society of Scotland’s AML Team understands that AML is **not** a zero-failure regime. The wider intention of our supervisory work is to help build a Scottish legal sector which is engaged with the issues around AML and which understands its risks and obligations and therefore organically applies itself to the suppression of financial crime through adequate, effective and compliant policies, controls and procedures.

Through our AML assurance work and frequent engagement with the profession, the AML team continues to make observations on areas requiring improvement in understanding and underlying compliance.

Themes identified through Assurance Reviews, PCP Thematic and Low Risk Attestations include:

- No evidence of **Senior Management/Partnership engagement** with AML issues such as the review and approval of PCPs.
- A lack of **detail contained within Practice Wide Risk Assessments (PWRAs)** which leads to limited effectiveness in terms of application of a risk-based approach.
- An absence of PCPs that clearly demonstrate **customer due diligence should be holistic in nature** and tailored to mitigate the risks present in the client and/or transaction
- The importance of **assessing and documenting risk at a client/matter level**, including nature, background, and circumstances
- A general misunderstanding of the additional measures required in higher-risk situations – i.e., what constitutes effective **‘Enhanced Due Diligence’**;
- Inability to effectively demonstrate understanding of the definitions and the application relevant to **Source of Funds/Source of Wealth checks** – and in what circumstances these are appropriate.
- A misunderstanding regarding **Beneficial Ownership** (including definitions, dilution issues and what is meant by ‘ultimate beneficial ownership’) and associated CDD requirements;
- Issues regarding contemporaneous, comprehensive and compliant AML-related **record-keeping and document management**;
- A lack of **understanding regarding AML technology** deployed.

Continuing Supervisory Action to Address Weaknesses:

The AML team continue engagement with the Scottish legal profession regarding the requirement to improve in these areas of AML Compliance. This is undertaken through:

- The use of observations and findings gained from assurance work and thematic review as the basis for supervisory publications and materials intended to guide and support the profession e.g., FAQs, toolkit items, blogs and Dear MLRO letters on specific topics.
- Ongoing dialogue with practices during the course of supervisory assurance reviews.
- AML presentations, conferences and seminars given.
- General queries and concerns raised and answered through the AML team Mailbox and Call Queue.
- The launch of refreshed AML templates including PCPs, and Client and Matter Level Risk Assessment (CMLRA) templates for both natural and non-natural clients along with accompanying guidance notes.

4. Response to Financial Sanctions Regimes

The situation in Ukraine continued to dominate the news headlines throughout the reporting period, and the role of the legal profession and regulators has been under ongoing scrutiny in relation to their response to events.

The AML team at The Law Society of Scotland recognises the expectation to assess the profession's exposure to sanctions.

Ongoing assurance has therefore been undertaken set against Money Laundering Regulations 2017, **r.33(6)(c)(iii)**:

“When assessing whether there is a high risk of money laundering or terrorist financing in a particular situation, and the extent of the measures which should be taken to manage and mitigate that risk, relevant persons must take account of risk factors including, among other things— geographical risk factors, including— (iii) countries subject to sanctions, embargos or similar measures issued by, for example, the European Union or the United Nations”

As an effective AML supervisor, LSS must ensure that practices are assessing exposure to these jurisdictions effectively and that the extent of the enhanced due diligence measures they take manages and mitigates any associated risk.

We have also explored the exposure to our supervised population by utilising our latest annual AML Certificate, asking questions such as:

“Has your practice conducted any AML regulated matters with a nexus to countries subject to sanctions, embargos or similar measures issued by, for example, the U.S, U.K or the United Nations”

and analysing the data/identifying potential files/matters where practices have responded in the affirmative.

As an example, the 2022 Certificate data showed that **23** Practices provided services with a Russian nexus. We have liaised directly with those Practices, making follow up enquiries to ensure we are aware of the nature of this work and have undertaken further assurance work where required. We have not assessed any of this work to be at risk of the violation of sanctions laws.

Further actions the AML team has completed in relation to sanctions include:

- Released statements which condemn the Russian invasion of Ukraine reflecting wider statements issued by The Law Society of Scotland.
- Created a set of - Financial Sanctions FAQ's within the AML pages of the LSS website, covering:
 - What Sanctions are.
 - What they mean for practices.
 - The threat of sanctions circumvention
 - Risk mitigation & sanctions screening and;
 - Reporting sanctions breaches.

We continue to review and amend these FAQ's on an ongoing basis.

- We have also created a central point of reference for Sanctions within our website which provides guidance and sources of further information such as OFSI Guidance for the population.
- We continue to share and update information internally with LSS colleagues creating further awareness.
- We have become a founding member of OFSI's Legal Sector Engagement Forum. Conversations are held quarterly with OSFI, Law Enforcement, Practitioners and, Regulators on the latest Sanctions considerations.

5. AML Training, Competency & Continual Improvement

To ensure the ongoing competence of the AML team and others involved in AML supervision, we continue to upskill, engage with training providers and undertake relevant training where appropriate.

External Training

Within the reporting period the team has commissioned bespoke, specialist AML supervisory training via a third-party AML expert training provider. This training included workshops on the use of Open-Source Intelligence (OSINT), crypto currency and sanctions/proliferation financing.

The team also recently engaged with a well-known legal sector technology provider in order to take us through a demonstration of their product. This was useful and has helped the team understand its uses and limitations providing valued insight into how this tool is used by our supervised population within the profession.

Additional Training

During the reported period the following additional training/upskilling measures have included:

- Engagement with external contacts at HMRC seeking to arrange potential cross supervisor training relating to intelligence sharing and analysis best practices.

- Two members of our AML team remain trained to International Compliance Association (ICA) AML Diploma standard, and regularly participate in continued professional development and training courses specifically related to AML.
- One further member of the team is currently working their way through the International Compliance Association (ICA) AML Diploma standard and will complete the course in 2023.
- The remaining two members of the team not trained to ICA Diploma level are scheduled to undertake this training in future.
- The AML team hosted a “Knowledge Sharing Session” within LSS for the benefit of the wider LSS Regulation Directorate. Topics covered included:
 - Size and scale of Money Laundering in the UK.
 - The role of LSS and in particular the AML team.
 - The risks of Money Laundering across the profession.

6. Intelligence Sharing & Participation in National AML Supervisory Forums

The Law Society of Scotland continues to be an active member of key national AML supervisory forums, these include:

- The national AML Supervisory Forum (AMLSF) alongside other relevant stakeholders including *Law Enforcement, Professional Body Supervisors, HMRC, The FCA, HM Treasury and OPBAS*.
 - The Head of AML at LSS has also assumed the role of deputy chair of this group in 2023.
- The Legal Sector AML Affinity Group (LSAG)
- The National and Regional Legal Sector Information Sharing Working Groups (ISEWGs).
 - *The Legal Sector ISEWG works to improve information sharing (regarding both AML risk trends and specific threats) between law enforcement and AML supervisors, so contributing to our risk-based approach.*
- OFSI’s Legal Sector Engagement Forum on Sanctions.

Membership of these forums allows LSS not only to monitor sectoral and national AML developments, issues and trends but also to help promote collaborative working, information-sharing and, joined up consistency in supervisory efforts cross-sector. It also helps ensure that ongoing and productive gateways/contacts with key stakeholders are maintained.

The AML team at LSS also previously led the efforts to develop and publish fully revised and updated legal sector AML guidance and remain active participants in relevant aspects of the Government’s Economic Crime Strategy.

The Society has also recently signed intelligence & data sharing agreements with Police Scotland & Regional HMRC FIS unit, based at Gartcosh. The agreements add operational colour to the terms of r.52 of the MLRs, and their proactive use will be explored in future annual reports.



7. Reporting Breaches & Concerns

In response to our obligation under **r.46** to take effective measures to encourage the sector to report breaches, the Society operates a reporting concerns hotline.

The hotline allows anonymous concerns to be disclosed by any person (the public, solicitors or others working in the legal sector) via a phonenumber and/or a dedicated webpage contact form. These channels are monitored and managed by the Society's public communications team with agreed escalation routes to the Director of Financial Compliance in respect of any potential AML-related matters.

Reporting Concerns – Key Numbers

- ***13 Reports Received by Director of Financial Compliance.***
 - ***1 Report considered to be AML-related.***
 - ***1 Report was utilised in our inspection programme.***

All concerns reported are all assessed for AML relevance, a number of reports received during the relevant period were found to be unrelated to AML and where appropriate, reporters were advised by the Society to consider a complaint to the Scottish Legal Complaints Commission (SLCC).

Other official and unofficial channels for reporting breaches or concerns are also available and open to the profession. We have, for example, included a specific section in the AML Certificate which asks respondents to share relevant information or intelligence which may help the Society mitigate AML risk within the sector.

8. Suspicious Activity Reporting by The Law Society of Scotland

Under **r.46(5)** obligations we are obliged to submit Suspicious Activity Reports (SARs) where we have knowledge or suspicion, or reasonable grounds for suspicion, of money laundering. We consider this to be an essential element of our supervisory duties, and an important gateway by which we share intelligence with law enforcement agencies.

During the reporting period, LSS submitted **20 SARs** to the National Crime Agency (NCA), based on information gathered and suspicions arising from our inspection work and other activities.

SAR Reporting – Key Numbers

- ***20 SARs were disclosed to the National Crime Agency.***
- ***6 SARs raised directly to MLRO by other members of staff leading to disclosure to the UKFIU.***
- ***14 SARs were the result of internal discussions within LSS leading to disclosure to the UKFIU.***
- ***4 SARs featured suspicion relating to Chinese Money Laundering linked to Conveyancing.***
 - ***6 SARs related to other matters involving Conveyancing.***
- ***9 SARs related to Miscellaneous fraud concerns including – Bounce Back Loans, Tax Evasion, Property Matters and Insolvency.***



9. Guiding the Profession

The AML team continues to engage with the Scottish legal profession in order to provide guidance and ensure that relevant areas of improvement toward AML compliance requirements are delivered and understood.

Ways in which the AML team meets this objective include a number of initiatives such as:

- Extensive AML support section and sub-sections on [The Law Society of Scotland Website](#). Recent updates to our FAQ's include:
 - *“Are there any specific ML risks relating to Chinese/HK related conveyancing?”*
 - *“Does my Practice need a documented Practice Wide Risk Assessment in relation to Proliferation Financing?”*
 - *“Can clients use COVID Bounce Back Loans to fund the purchase of a personal asset?”*
- AML presentations, conferences and seminars including requested Faculty visits/roadshows.
- General queries and concerns raised through the AML team Mailbox and Call Queue.
- The launch of [refreshed Client and Matter Level Risk Assessment \(CMLRA\) templates](#) for both natural and non-natural clients and matters and accompanying guidance notes to assist with completion.
- Launch of a new set of [templates for the profession](#) to use covering AML Policies, Controls and Procedures.
- We have contracted the use of ICAEW video – *“All too Familiar”* which is used to draw attention to regulatory concerns and common mistakes within AML regulated businesses.
- The recently published results of the [AML Thematic on Review of Policies, Controls and Procedures](#).

The AML team also continues to make the most of their extensive presence on social media platforms such as LinkedIn, issuing and promoting relevant AML-related information, new website content, sources of support and other topical information to both the profession and the wider stakeholder community.

The AML team recognises that the non-assurance work undertaken is also of significant importance in the context of the wider support the Society offers its supervised population and as illustrated here, this can range from specific assistance to practices on AML matters, ad hoc queries, webinars, conferences and national projects.

Case Study - AML Attestations

The AML team wanted to ensure appropriate visibility and assurance in relation to those practices we had previously identified as inherently lower risk (in line with general OPBAS observations across the PBS sector).

To this end, the AML team sought to engage with practices identified by our AML Certificate analysis as lower inherent risk - through the introduction of our new AML compliance attestations process, rolled out in November 2022.

The process requires selected tranches of lower inherent risk practices to complete a supervisory return attesting to compliance with the HMT approved LSAG Guidance Key Compliance Principles.

These attestations are then reviewed by the AML team and followed up with a sample-based evidential review of responses. This is an important way in which we can efficiently and effectively undertake proportionate supervision of lower risk areas of our supervised population. For those practices who are not reviewed imminently, the attestation is saved securely for reference during any future assurance of the practice.

- *The AML team select a tranche of practices & contact the corresponding MLRO's. The tranche can be a group of up to 50 practices at one time and the first group was contacted in November 2022. The practices are selected on a risk-based approach using the annual AML certificate data.*
- *Spot checks are completed on 10% of the tranche to verify the information submitted & feedback is provided to the MLRO which is tailored to each practice.*

Case Study - Ongoing Relationship Management Model

As a method to ensure ongoing compliance and improvement within the profession the AML team has rolled out a new process for Ongoing Relationship Management.

This process was implemented in 2022-2023 and involves only practices who have previously been subject to a full high-risk inspection and have conducted any remediation to required standards.

These practices are provided with a relationship management attestation which requires them to answer questions in relation to any changes in their risk profiles, appetite, or exposure since the completion of their previous inspection, along with any changes to their AML control environment.

The AML team then review practice responses and utilise the analysis to form the basis of ongoing supervisory dialogue with the firm until their next full AML inspection scheduled.

10. Supervisory Reform, Continuous Improvement & A Look Ahead

Economic Crime Reform

We continue to actively participate in the Government's Economic Crime reform agenda and have recently provided a response to the forthcoming HM Treasury consultation regarding the structure of the UK AML supervisory regime.

We have made clear in our response we are open and amenable to reform where it aligns with our stated objective of modern, effective regulation, and we believe such reform is in the public interest and ensures public trust in the profession.

We do not oppose additional powers being granted to OPBAS, or the consolidation of the Professional Body Supervisory framework if undertaken on a devolved basis. We do, however, oppose national consolidation given the separate legal and regulatory frameworks on which the regulation of Scottish solicitors is undertaken.

We oppose the potential creation of a single professional services or all-encompassing AML supervisor as we believe these options would be detrimental to the effectiveness of the UK AML infrastructure, with significant and undue cost, operational and legal issues to overcome. We also hold significant concerns regarding the independence of the legal sector should any such body be accountable directly or indirectly to the UK government.

We note a decision will be made by March 2024 - whilst this consultation takes place, we remain resolutely committed to discharging our AML supervisory obligations in a responsible and effective manner.

Continual Improvement

This past year has seen the AML team at LSS introduce considerable changes and further improvement to the way in which we discharge our AML supervisory responsibilities.

We have welcomed OPBAS oversight in supporting our continuous improvement plan and engaged a third-party AML expert to review our AML supervisory assurance processes in light of their findings and in line with recently released Financial Action Task Force (FATF) Guidance relating to risk-based supervision. We continue to update and strengthen our processes following these reviews.

Several new processes have been implemented – for example we have extended our supervisory reach further into our lower risk population through the issuance of attestations and following up with sample-based review of Policies, Controls and Procedures (see case study above). We have also extended and enhanced data verification and checking of AML certificate returns – looking for anomalies, outliers and test checking using open and closed sources. We have contacted Practices to query information supplied, and where required, sought an explanation of for errors submitted.

We have enhanced our assurance approach by incorporating further scrutiny and assessment of overall Practice Unit AML culture & effectiveness, along with key person supervisory interviews.

We have responded to external events, threats and membership feedback by updating the risk assessment and PCP templates made available on our website, and by adding to our suite of Frequently Asked Questions, including information on the mitigation of Crypto risk, Chinese ML -related threats and the illegitimate use of Bounce back loans.

A look ahead into 2024

Following the success of the **AML Thematic on Review of Policies, Controls and Procedures**, the AML team will undertake a further thematic looking at volumes and quality of Suspicious Activity Reports generated by the Scottish solicitor profession, and the understanding of SARs and their requirements in general. We reassert that the effective reporting of SARS by regulated entities is of paramount importance and is central to the effectiveness of the AML system. Preparations will be made late 2023, with launch into 2024.

As our first round of reviews across higher-risk practices concludes (and we therefore gain increasing comfort with the compliance and standard of AML policies, controls and procedures across the supervised population) we look forward to increasing focus on the proactive use of intelligence-sharing arrangements, including agreements signed with HMRC and Police Scotland, to enhance our supervisory effectiveness and approach.

We will also be able to dedicate increasing time to reviewing the effectiveness of PCPs “on the ground” by dialling up our scrutiny of files, or particular areas of higher risk across the population.

2024 will be another significant year both in the implementation of the UK’s wider Economic Crime plan to 2026 and in preparation for the follow-up to the FATFs 2018 Mutual Evaluation of the UK.

We look forward to further strengthening our relationships across our membership and the wider external stakeholder community to play our part, and ensure the Scottish legal profession continues to be a hostile environment to launder the proceeds of crime.