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# Risk Assessment and Compliance

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## Introduction

Money laundering and terrorist financing present a financial, reputational, and regulatory risk to legal professionals. Taking action to ensure a systematic approach to risk will help to prevent legal professionals from being exploited by criminals engaged in these activities. Legal professionals have been obligated for many years to understand and comply with law society anti-money laundering and terrorist financing (AMLTF) rules to address these risks.

But this regulation, which is comprehensive and detailed, can be complex. Because of this, legal practices may find it useful and appropriate to adopt specific AMLTF processes and procedures. Doing so may help support knowledge of and consistent compliance with these important obligations and help to manage risks that may be presented in various practice settings.

Some legal practices may have already adopted such processes and procedures within their general file management and risk management processes. Other practices may have assigned a particular person – for example, a chief operating officer or chief compliance officer – to lead this function and establish AMLTF practice management protocols within the firm. Acknowledging the value of such initiatives, this guidance provides information and resources on what firms may wish to cover in AMLTF processes and procedures and how they might be adopted systematically in office management practices.

The objectives in adopting these measures are to ensure practice-wide awareness of and compliance with the AMLTF obligations, to promote professional and ethical legal practice and to demonstrate a commitment to achieving a successful and viable legal practice to serve the communities in which legal professionals work. It is anticipated that with some law societies in Canada now having the authority to regulate law firms, the opportunity exists for firms to incorporate compliance and risk assessment measures in the larger set of protocols and practices they may implement to assist in meeting law societies' regulatory standards.

This approach supports the obligations under the AMLTF rules which, as the Model Rule on Client Identification and Verification indicates, are in keeping with the legal professional's obligation to know their client, understand the client's financial dealings in relation to the retainer with the client and manage any risks arising from the professional business relationship with the client.

## A Tailored Approach to Establishing Compliance and Risk Management Processes

This guidance recognizes that developing processes and procedures to ensure compliance with AMLTF requirements in a legal practice does not lend itself to a 'one size fits all' approach, acknowledging the realities of legal practice. While certain components of risk management may be common among legal practices, each individual firm should determine the compliance



protocols, policies, and procedures suitable for their practices or add them to other existing risk management practices and procedures.

The following outlines an approach to establishing an AMLTF compliance and risk management process:

- **assessing and documenting risks** of money laundering or terrorist financing activity relevant to the firm or practice;
- **establishing processes and procedures for compliance and risk management** appropriate to the nature of and geared to the legal professional's practice;
- **designating a person** within the practice who is responsible for establishing and implementing risk and compliance procedures;
- **instituting measures for education or training** for legal professionals and those supporting the practice, as applicable, such as employees or agents;
- **establishing a periodic review** of the policies and procedures to ensure effectiveness and currency, with results reported to the managing partner or the firm's executive committee, as applicable.

These measures, discussed below, should assist the legal practice in identifying and addressing both general and specific compliance and risk management issues relevant to the legal practice.

### 1. [Assessing and Documenting Risk](#)

Risk is an inevitable reality of legal practice. Practically, this means that risk must be addressed, and an effective way to do so is to actively mitigate risk through structured, systematic risk management. A systematic approach begins with a risk assessment and documenting the results of the assessment.

A risk assessment in the context of the AMLTF regime is an analysis of potential risks and vulnerabilities that could expose the legal practice to money laundering or terrorist financing activities. A risk assessment will identify inherent risks and will assist in developing mitigation measures to deal with these risks. It may also assist in identifying special risks associated with certain legal practice areas, for example, real estate, where fraudsters are using more sophisticated methods to falsify identification documents and pursue criminal activity.

It is essential to consider the following aspects of a legal practice when assessing risks associated with money laundering and terrorist financing:

- the type of legal services offered - litigation (civil/criminal), corporate/commercial, wills and estates, real estate (residential and commercial);
- the location of the practice – urban or rural settings, in association with other legal service providers or located within a multi-disciplinary practice;



- the size of the legal practice and the infrastructure for firm management;
- the nature of the clients - individuals, small businesses, partnerships, corporations;
- the geographic location(s) of the legal practice;
- the use of technology in the provision of legal services and impacts that new technologies may have on services offered to clients.

A thorough, documented risk assessment is the essential first step in developing a compliance strategy and will also inform the content of written policies and procedures that support risk management – the next step in the process. In addition, and as set out in the last step of this guideline, these risk factors may change, impacting the overall risk assessment and related compliance processes, and should be reviewed periodically.

## 2. Establishing processes and procedures for compliance and risk management

Following the initial identification, assessment, and documentation of risks, a legal practice can then develop and establish processes and procedures to mitigate the risks.

Policies and procedures should be documented and may include:

- the legal practice's methods for collecting, recording and storing information about
  - client identity, including third parties and the instructing individual for organizational clients
  - verification of client identity, including choice of verification documentation
  - beneficial owners/controllers of organizational clients
  - higher risk clients (e.g. politically exposed persons)
  - source of funds and as applicable source of wealth
  - exceptions to client ID verification on a client-by-client basis,
- standard templates for agreement for use of an agent for client ID verification purposes,
- processes for verification in non-face-to-face situations,
- processes for monitoring the professional business relationship (as applicable), including information to be obtained, frequency/time periods related to monitoring activity, etc.

## 3. Designating Responsible Parties

Depending on the size and nature of the legal practice, it may be practical and efficient to assign responsibility for instituting and overseeing application of AMLTF compliance and risk management systems to a designated individual or individuals. In some practices, the responsibilities may fall to a Chief Operating Officer or similar executive. If a person is designated, they should have:

- an understanding of the practice, its service lines and clients;
- knowledge of the legal professions' AMLTF regulation and the firm's risk management processes;



- sufficient authority for management of this responsibility including any required resources; and
- the responsibility to establish, in consultation with the firm's management, the protocols for receiving information about compliance issues, unusual client activity or extraordinary situations that may present risk.

Some larger practices may have risk management counsel who may also have certain AMLTF compliance and/or management responsibilities.

In sole and small practices, it may not be feasible to have a person responsible for compliance or risk management processes. In these settings, a managing partner could be the lead on compliance and risk management. They should also oversee the development of robust written practices and procedures, as noted above, that all legal professionals and relevant employees must follow.

#### 4. [Educating and Training](#)

To ensure that there is a common understanding of the law society AMLTF obligations and their application, a legal practice may find it useful to create or organize education or training resources.

All legal professionals and those authorized to act on the firm's behalf involved in client transaction activities should be aware of the AMLTF components of the duties/functions that they perform. A training/education resource is one way to provide what is required.

An education/training resource can take different forms – incorporating AMLTF and risk management information in the onboarding process for new hires, self-study resources, topical training sessions at the legal practice, in-firm updates on risk management and AMLTF compliance. The training and education methods chosen should be those best suited to the practice and the people who work there, tailored to the practice's size, structure and complexity, and its degree of exposure to money laundering and terrorist financing risk.

Topics may include:

- understanding AMLTF concepts and the purpose of risk management processes in the legal practice;
- obligations under the rules for cash transactions, client ID and verification, trust accounts and record-keeping and the firm's policies and procedures for obtaining required information to comply;
- particular vulnerabilities the legal practice should pay attention to; and
- being able to identify, report internally on and respond to circumstances that raise concerns or red flags.



The education/training resources should be in writing and readily available. Legal practices should document when partners, associates, and employees access, review and/or complete the training. It would also be beneficial to build in a review of the resources on a regular cycle (e.g., 2 years) to ensure that they are current.

Legal practices may wish to leverage some of the resources provided through law societies and through the Federation of Law Societies of Canada for this purpose, including [“Anti-Money Laundering and Terrorist Financing in the Canadian Legal Profession”](#) a five-module online program.

## 5. [Performing Regular Reviews](#)

To ensure the effectiveness of the legal practice’s policies and procedures, including risk assessment and management, and education and training resources, and to identify any gaps in AMLTF compliance, a review at a regular interval is advisable. Ideally, the review should be conducted by someone who has an adequate working knowledge of the AMLTF requirements.

The appropriate interval for the review should be determined by the practice. Some firms may adopt an annual review or another defined period aligning with established periodic reviews instituted for other operational purposes. However, a material change in circumstances within the practice may prompt a review at a point in time. These changes may include, for example, a significant expansion of the services offered, a number of new staff, introduction of new technologies in the practice, or a merger with another legal practice. Generally, to ensure the value of the review process, it is suggested that the interval between reviews be no greater than two years.

The following are examples of what might be included in the review:

- interviews with those handling transactions, including legal professionals and administrative staff, to obtain feedback on the value and usefulness of the compliance and risk management measures;
- a review of the firm’s risk assessment to confirm that it reflects current operations;
- a review of policies and procedures to ensure that they are up to date and reflect the current requirements and current business practices;
- a review of a sampling of files/records and documentation to ensure current requirements are met and established practices are observed;
- the conclusions, including deficiencies, recommendations and action plans, if any, resulting from the review;
- any updates to be made to the policies and procedures as a result of the review;
- the status of the implementation of the updates made to the policies and procedures.



## RESOURCES

### Federation of Law Societies of Canada

[Risk Assessment Case Studies for the Legal Profession](#)

[Risk Advisories for the Legal Profession](#)

### Canada

[Canadian Sanctions Related to Russia \(international.gc.ca\)](#)

### FINTRAC

[Compliance program requirements \(canada.ca\)](#)

[Risk assessment guidance \(canada.ca\)](#)

### UK Solicitors Regulation Authority website information

<https://www.sra.org.uk/solicitors/guidance/ethics-guidance/firm-risk-assessments/>

### Law Society of Scotland website information

<https://www.lawscot.org.uk/members/business-support/financial-compliance/anti-money-laundering/>

### New Zealand Law Society website information

<https://www.lawsociety.org.nz/practice-resources/practice-areas/aml-cft/aml-compliance-specimens/aml-cft-compliance-specimens>

